Washington, Wednesday, May 13, 1953

TITLE 3—THE PRESIDENT **PROCLAMATION 3014**

NATIONAL MARITIME DAY, 1953

BY THE PRESIDENT OF THE UNITED STATES OF ALTERICA

A PROCLAMATION

WHEREAS the American Merchant Marine has continued to aid in developing our peaceful commercial relations with the nations of the free world; and

WHEREAS, through the prompt delivery of supplies and equipment to our armed forces overseas, and of cargoes representing economic and military aid to friendly nations, the American Merchant Marine has effectively helped to strengthen the forces of freedom throughout the world; and

WHEREAS the Congress by a joint resolution approved May 20, 1933 (48 Stat. 73) designated May 22 as National Maritime Day, thus honoring the Merchant Marine by commemorating the departure from Savannah, Georgia, on May 22, 1819, of The Savannah, on the first transoceanic voyage by any steamship, and requested the President to issue a proclamation annually calling for the observance of that day.

NOW THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby urge the people of the United States to observe Friday, May 22, 1953, as National Maritime Day by displaying the flag of the United States at their homes or other suitable places; and I direct the appropriate officials of the Government to arrange for the display of the flag on all Government buildings on that day. I also request that all ships sailing under the American flag dress ship on the appointed day in honor of our Merchant Marine.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to

DONE at the City of Washington this eighth day of May in the year of our

Lord nineteen hundred and [SEAL], fifty-three, and of the Independence of the United States

of America the one hundred and seventy-seventh.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES, Secretary of State.

[F. R. Doc. 53-4263; Filed, May 11, 1953; 4:50 p. m.]

PROCLAMATION 3015

NATIONAL MENTAL HEALTH WEEK®

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS mental illness constitutes one of the Nation's most difficult and

costly problems; and

WHEREAS there is urgent need for more trained personnel to carry on research on mental illness and the treatment of the mentally ill; and

WHEREAS citizens' voluntary mental health organizations—national, State, and local—are working diligently in this battle to build sound mental health; and

WHEREAS the efforts of these private organizations and the mental health fund which they are raising through public subscription are deserving of generous support by all of our citizens; and

WHEREAS the Department of Health, Education, and Welfare, through the National Institute of Mental Health of the Public Health Service, and also State and local governments, are mobilizing appropriate governmental resources to aid in the fight for sound mental health for all citizens of this Nation; and

WHEREAS Senate Resolution 93 of the 83d Congress, 1st Session, adopted May 5, 1953, requests the President of the United States to issue a proclamation designating the week beginning May 3 and ending May 9, 1953, as National Mental Health Week:

NOW THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby designate the week beginning May 3 and ending May 9, 1953, as National Mental Health Week; and I urge the people throughout the Nation to cooperate in the fight against mental illness, and invite the

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tions prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C. The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

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Principal Officials in the Executive Branch Appointed January 20-April 20, 1953

A listing of approximately 200 appointments made after January 20, 1953. Names contained in the list replace corresponding names appearing in the 1952–53 U.S. Government Organization Manual

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communities of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this eighth day of May in the year of our Lord nineteen hundred and fifty-three, and of the Independence of the United States of America the one hundred and seventy-seventh.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES, Secretary of State.

[F. R. Doc. 53-4262; Filed, May 11, 1953; 4:49 p. m.]

RULES AND REGULATIONS

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 30—TOBACCO STOCKS AND STANDARDS CLASSIFICATION OF LEAF TOBACCO COVERING CLASSES, TYPES, AND GROUPS OF GRADES

Pursuant to the authority contained in section 2 of the Tobacco Stocks and Standards Act, as amended (45 Stat. 1079·47 Stat. 662; 49 Stat. 893; 7 U. S. C. 501 et seq.) an amendment, as hereinafter set forth, to the regulations applicable to the classification of leaf tobacco covering classes, types and groups of grades (7 CFR Part 30) is hereby promulgated to be effective during the period specified herein.

Such amendment is designed to give recognition to the fact that certain strains and varieties of tobacco, currently being produced on an exploratory or experimental basis only, will be cured in the same manner as Class 1, flue-cured tobacco, will have visual characteristics of quality, color and length similar to Class 1, flue-cured tobacco, but may dif-

fer from Class 1, flue-cured tobacco, in that the nicotine content thereof may not exceed eight-tenths of one per centum (% of 1%) oven dry weight. A three-year period is fixed within which such tobacco may be observed and studied as a means of determining the appropriate classification thereof. During the three-year period, therefore, any such tobacco, the identity of which is maintained continuously in accordance with the Department's applicable instrutions during all stages of its production from the time of planting up to, and including, the time of marketing, will be classified as Class 7.

Section 30.42 Class 7; miscellancous types of domestic tobacco is hereby amended to read as follows:

§ 30.42 Class 7, miscellaneous types of domestic tobacco. (a) No type or group divisions have been worked out for Class 7. In addition, notwithstanding the definitions of "Class," "Type," "Type 11," "Type 12," "Type 13" and "Type 14," any tobacco having the general visual characteristics of quality, color and length of the types and groups contained in Class 1, flue-cured tobacco, but which is a strain or variety found

in its cured state by an authorized representative of the Department to have a nicotine content of not more than eighttenths of one per centum (\$\frac{5}{10}\$ of 1%) oven dry weight, shall, for the 1953, 1954, and 1955 crops of such tobacco only, be designated upon certification by the Department as Class 7: Provided, That, for the purpose of establishing and maintaining the identity of such tobacco, it shall not be sold or offered for sale through customary marketing channels for Class 1, flue-cured tobacco; and it shall be identified in accordance with instructions issued by the Tobacco Branch, Production and Marketing Administration, United States Department of Agriculture (or other designated agency of the United States Department of Agriculture) covering certification of seed or seedlings, contracts for production, designation and demarcation of fields in which grown, maintenance of ceparate identity of such tobacco from other tobacco, furnishing of samples and furnishing of such information as may be requested relating to production, steels, and disposition of such tobacco.

(b) For the purposes of the tobaccoctocks reports all miscellaneous domestic tobacco shall be designated as follows:

(1) Type 70: All domestic-grown tobacco which has not been otherwise classified, including, for the 1953, 1954 and 1955 crops only, tobacco cured in the came manner as Class 1, flue-cured tobacco, but having a mootine content of not more than eight-tenths of one per centum (%10 of 1%) oven dry weight. Also included in the miscellaneous types are such types as Ohio Flue-cured and Fire-cured (known as Eastern Ohio) Upper Country Maryland, Louisiana Perique, California Turkish, and Virginia One-sucker, and the production of the insular possessions of the United States not otherwise classified.

It is hereby found, for the reasons hereinafter set forth that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date hereof until 30 days after publication in the Federal RESIDER (5 U.S. C. 1001 et seq.). Tobacco of the 1953 crop is now in production and it is essential to the proper application of the standards for classifications established under the Tobacco Stocks and Standards Act, as amended, that tobacco cured in the same manner as Class 1, flue-cured tobacco, but having a nicotine content of not more than eight-tenths of one per centum (%10 of 173), oven dry weight be recognized and defined in such standards. Any delay in the recognition of such classification will prevent the application of such standards to the 1953 tobacco crop and will prevent adequate notice to growers to enable them to comply with the requirements for such classification set forth herein. Accordingly, the aforesaid amendment shall become effective immediately upon publication thereof in the FEDERAL REGISTER.

(Sec. 2, 45 Stat. 1079, sec. 2, 49 Stat. 894; 7 U. S. C. 592)

Done at Washington, D. C., this 7th day of May 1953.

[SEAL]

E. T. BENSON, Secretary of Agriculture.

[F. R. Doc. 53-4202; Filed, May 12, 1953; 8:50 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 984—HANDLING OF WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHING-TON

INCREASE IN RATE OF ASSESSMENT FOR MAR-KETING YEAR BEGINNING AUGUST 1, 1952

Notice of proposed rule making with respect to increasing the rate of assessment for the marketing year beginning August 1, 1952, was published in the FEDERAL REGISTER of April 11, 1953 (18 F R. 2060) pursuant to the provisions of Marketing Agreement No. 105 and Order No. 84 regulating the handling of walnuts grown in California, Oregon, and Washington (7 U.S. C. 601 et seq.) said notice, in which it was proposed to increase the rate of assessment for the marketing year beginning August 1, 1952, from 0.12 cent per pound to 0.13 cent per pound of merchantable walnuts handled or certified for handling, opportunity was afforded interested persons to submit to the Department written data, views, or arguments for consideration prior to the issuance of the final rule. No such documents were received during the period specified.

Therefore after consideration of all relevant matters, it is found and determined that § 984.304 (b) as published in the Federal Register of November 13, 1952, should be and hereby is amended to read as follows:

to read as follows:

(b) Rate of assessment. Each handler shall pay to the Control Board on demand by the Control Board, from time to time, 0.13 cent for each pound of merchantable walnuts handled or certifled for handling by him during the marketing year beginning August 1, 1952.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Issued at Washington, D. C., this 7th day of May 1953, to become effective thirty days after publication of this document in the Federal Register.

[SEAL]

E. T. Benson, Secretary of Agriculture.

[F. R. Doc. 53-4203; Filed, May 12, 1953; 8:50 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter B—Economic Regulations [Reg. No. ER-185]

PART 296—CLASSIFICATION AND EXEMPTION OF AIR FREIGHT FORWARDERS

EXTENSION OF OPERATING AUTHORIT

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 6th day of May 1953.

Under Part 296 of the Economic Regulations, establishing the classification and temporary exemption of air freight forwarders, the duration of the temporary authority therein provided is to expire on October 15, 1953. Pursuant to the provisions of section 9 (b) of the Administrative Procedure Act and of Part 290 of the Board's Economic Regulations, the holder of any letter of registration issued under Part 296 who files an application for renewal of his authority to operate as a freight forwarder on or before August 17, 1953, would be entitled to continue his freight forwarder activities under the existing regulations until the Board shall have finally decided the issues raised by his renewal application.

On February 5, 1953, the Board, in Docket 5947, ordered an investigation into all matters relating to and concerning the services of air carriers indirectly engaged in the air transportation of property. All current holders of letters of registration issued under Part 296 were joined therein. The order provided, in part, that the investigation should include, inter alia, the question of whether the public interest requires the renewal and/or amendment of Part 296 of the Economic Regulations.

Since this proceeding was commenced by order of the Board rather than upon the individual applications of holders of letters of registration under Part 296, the condition which would bring section 9 (b) of the Administrative Procedure Act into effect has not been satisfied, even though the issues which would be raised by individual applications will be decided in such Air Freight Forwarder Investigation. This in turn raises a doubt as to whether, in the absence of such applications, freight forwarders would be entitled to continue their present activities by virtue of section 9 (b) of the Administrative Procedure Act after October 15, 1953, during the pendency of such proceeding.

The Board believes that there is no purpose to be served by requiring air freight forwarders to file applications for renewal of their operating authority, since such issue will be determined in Docket 5947. In order to save the interested parties the time and expense of preparing such applications by giving them a right in lieu of the rights accorded by section 9 (b) the Board believes that the authority set forth in Part 296 of its Economic Regulations should be extended until 60 days after its final determination in the Air Freight Forwarder Investigation Case, and the Board expressly finds such action to be in the public interest.

Since this amendment is technical in nature, imposes no additional requirement on any person, and operates to relieve air freight forwarders of an unnecessary burden, it may be made effective immediately and without prior notice to the public.

In consideration of the foregoing, the Board hereby amends § 296.4 of the Economic Regulations to read as follows:

§ 296.4 Duration. The temporary authority provided by this part shall continue in effect until 60 days after the final Board disposition of Docket 5947,

Air Freight Forwarder Investigation Case.

(Sec. 205, 52 Stat. 984; 47 U. S. C. 425. Interprets or applies secs. 1, 416, 1001, 52 Stat. 977, 1004, 1017; 49 U. S. C. 401, 496, 641)

By the Civil Aeronautics Board.

[SEAL]

M. C. MULLIGAN, Secretary.

[F. R. Doc. 53-4221; Filed, May 12, 1953; 8:55 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade [6th Gen. Rev. of Export Regs., Amdt. 401]

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

PART 376—PERIODIC REQUIREMENTS LICENSE

PART 381—ENFORCEMENT PROVISIONS
MISCELLANEOUS AMENDMENTS

1. Section 373.56 Human blood plasma paragraph (a) Licensing criteria is amended in the following particulars:

The first sentence of the introductory text is deleted. The introductory text, as amended, reads as follows:

(a) Licensing criteria. Applications submitted for licenses to export human blood plasma will be considered for approval by the Office of International Trade only where the end use and quantity involved meet one of the following criteria:

This part of the amendment shall become effective as of May 7, 1953.

2. Section 376.51 Supplement No. 1, commodities subject to Periodic Requirements License is amended by the addition of the following commodity entries:

Dept. of Com- merce Schedule B No.	Commodity
791173	Commercial trailers, n. o. c., truck or truck- tractor type, capacity 5 tons or over (now
791193	and used). Parts, n. o. c., specially fabricated for commercial trailers.
۵	I

This part of the amendment shall become effective as of May 7, 1953.

3. Section 381.4 Destination control paragraph (c) Statement regarding ultimate destination on declaration, bill of lading and commercial invoice is amended in the following particulars:

A new subparagraph (4) is added to read as follows:

(4) No carrier shall release custody of a shipment of commodities covered by the provisions of this section to any party (including agents, on-carriers, foreign customs officials, or any other person) without surrender by that party, to the carrier, of a copy of the bill of

¹This amendment was published in Current Export Bulletin No. 702, dated May 7, 1953.

lading bearing on its face the destination control statement; unless simultaneously with release of the commodities the carrier delivers to such party a written copy of the destination control statement covering the shipment as contained on the copy of the bill of lading in the carrier's possession. The written statement shall identify the shipment by bill of lading number, name of carrier, voyage number, date and port of arrival. The carrier shall secure and retain either a signed receipted copy of such written notice or other equivalent written evidence of such notice.

This part of the amendment shall become effective as of May 21, 1953.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

> LORING K. MACY, Director Office of International Trade.

[F. R. Doc. 53-4219; Filed, May 12, 1953; 8:54 a. m.]

[6th Gen. Rev. of Export Regs., Amdt. 411] PART 399-POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MISCELLANEOUS AMENDMENTS

Section 399.1 Appendix A-Positive List of Commodities is amended in the following particulars:

1. The following commodities are deleted from the Positive List:

Dept. of Com- merce Schedule B No.	Commodity
619950	Other metals, except precious (specify by name and type of metal): Lead collapsible tubes.

¹ By this amendment, the eighth entry presently on the Positive List under Schedule B No. 61900 is revised to read as follows: "Lead manufactures, n. e. c., except lead collapsible tubes."

2. The following commodities are made subject to the Periodic Requirements license (PRL) (see Part 376 of this subchapter) Accordingly, the letter "E" is inserted in the column headed "Commodity Lists."

Dept. of Com- merce Schedule B No.	Commodity
791173 791193	Commercial trailers, n. e. e., truck or truck- tractor type, capacity 5 tens or over (new and used). Parts, n. e. e., specially fabricated for com- mercial trailers.

This amendment shall become effective as of 12:01 a. m., May 7, 1953.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945,

LORING K. MACY. Director

Office of International Trade.

[F. R. Doc. 53-4220; Filed, May 12, 1953; 8:55 a. m.)

TITLE 16—COMMERCIAL **PRACTICES**

Chapter I—Federal Trade Commission [Docket 5713]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

LATHEM TIME RECORDER CO. ET AL.

Subpart—Interfering with competitors or their goods—Goods; § 3.1097 Concealing or removing competitors' names. Subpart-Misrepresenting oneself and goods—Business status, advantages or connections; § 3.1395 Connections and arrangements with others; § 3.1397 Customer connection, § 3.1435 History; § 3.1485 Manufacturer's operations; Prices: § 3.1825 Usual as reduced or to be increased; Subpart—Offering unfair, improper and deceptive inducements to purchase or deal; § 3.1928 Customer connection; § 3.2063 Scientific or other relevant facts; § 3.2070 Special offers, savings and discounts. In or in connection with the sale or offering for sale, or servicing or repairing, or solicitation of orders for the servicing or repairing, of watchman's clocks or other time-recording devices in commerce, and on the part of respondent corporation, and its officers, and respondent individuals, individually and as officers of respondent corporation, and respondents' agents, etc., representing, directly or indirectly, (1) that they or any of them have previously serviced or repaired any watchman's clock or other time-recording device which has not in fact been previously serviced or repaired by them or any of them; (2) that they or any of them have a record of the date when any watchman's clock or other time-recording device, in the possession of another, was last serviced or repaired, when such is not a fact; (3) that they or any of them are successors to or representatives of any manufacturer of watchman's clocks or other time-recording devices, when such is not a fact; (4) that the price which is charged for servicing or repairing watchman's clocks or other timerecording devices is a special price, when in fact the price charged is that customarily and usually charged in the ordinary course of their business; or (5) that they or any of them are the manufacturers of any watchman's clock or other time-recording device which is not in fact manufactured by them or any of them; or (6) removing, mutilating, concealing, or obscuring the manufacturer's name on any watchman's clock or other timerecording device, serviced or repaired by them, except insofar as is necessary in the proper servicing or repairing of such watchman's clock or other time-recording device; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15

10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 2019, U. S. C. 45) [Cease and deelst order, Lathern Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1943 Supp.) Time Recorder Company et al., Atlanta, Ga., Docket 5713, February 6, 1953]

> In the Matter of Lathem Time Recorder Company, a Corporation, and Louis P. Lathem, Sr., Louis P Lathem, Jr., and Harrison G. Hooper, Individually and as Officers of Lathem Time Recorder Company

> Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on December 1, 1949, issued and subsequently served its complaint in this proceeding upon Lathem Watchman's Clock Company, a corporation, and Louis P. Lathem, Sr., Louis P. Lathem, Jr., and Harrison G. Hooper, individually and as officers of Lathem Watchman's Clock Company, charging them with the use of unfair and deceptive acts and practices and unfair competition in commerce in violation of the provisions of said Act. Thereafter, on May 26, 1950, said complaint was amended, pursuant to a stipulation between counsel, by substituting the name "Lathem Time Recorder Company" for the name "Lathem Watchman's Clock Company" wherever same appears in the caption of the complaint or in the body thereof. After the issuance of said complaint and order amending same and the filling of respondents' answer thereto, hearings were held at which testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a hearing examiner of the Commission theretofore duly designated by it and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final consideration by said hearing examiner upon the complaint. answer thereto, testimony and other evidence, and proposed findings presented by counsel, and said hearing examiner, on September 6, 1951, filed his initial decision in which he ordered that the complaint be dismissed without prejudice to the right of the Commission to institute further proceedings should future facts warrant.

> Within the time permitted by the Commission's Rules of Practice, counsel supporting the complaint filed with the Commission an appeal from said initial decision, and thereafter this proceeding regularly came on for final consideration by the Commission upon the record, including briefs and oral argument of councel in support of and in opposition to said appeal; and the Commission, having entered its order granting said appeal and disposing of the exceptions to the hearing examiner's mitial decision, and being now fully advised in the premises. finds that this proceeding is in the interest of the public and makes this its findings as to the facts and conclusion drawn therefrom and order, the same to be in lieu of the initial decision of the hearing examiner.

Findings as to the Facts

PARAGRAPH ONE. Respondent Lathern Time Recorder Company is a corporation organized and doing business under and by vartue of the laws of the State of Georgia, with its office and principal

¹This amendment was published in Current Export Bulletin No: 702, dated May 7, 1953.

place of business located at 76 Third Street, N. W., Atlanta, Georgia.

The individual respondents, Louis P Lathem, Sr., Louis P Lathem, Jr., and Harrison G. Hooper, are, respectively, president-treasurer, vice-president, and secretary of the said Lathem Time Recorder Company. These individual respondents also have their offices at 76 Third Street, N. W., Atlanta, Georgia, and at all times mentioned herein have formulated, directed, and controlled the acts, policies, and business affairs of said corporate respondent.

Respondents, in the course and conduct of their business, as hereinafter described, used the trade name "Lathem Watchman's Clock Company"

PAR. Two. Respondents are now, and have been for the past several years, engaged in the business of manufacturing, selling, servicing, and repairing clocks and other time-recording instruments. Among the time-recording instruments manufactured, sold, serviced, and repaired by respondents is what is known as a watchman's clock, in which a single clock contains apparatus for recording the time of visiting several different stations or places. Respondents cause such clocks and time-recording devices, when sold, serviced, or repaired by them, to be transported from their place of business in the State of Georgia to the purchasers or owners thereof located in the various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said business in commerce among and between the various States of the United States. Respondents' volume of said business in said commerce is substantial.

Respondents are now, and have been at all times herein mentioned, in substantial competition with other persons, firms, and corporations likewise engaged in the manufacture, interstate sale, service, and repair of watchman's clocks.

Although the acts and practices of the respondents hereinafter described were engaged in principally in connection with the servicing and repairing, and the soliciting of orders for the servicing and repairing, of watchman's clocks, the effect of such acts and practices has been to give the respondents an unfair advantage in the sale of new watchman's clocks, as well as an unfair advantage in obtaining the business of servicing and repairing such clocks.

PAR. THREE. The individual respondent Louis P Lathem, Sr., has been engaged in the business of selling, servicing, and repairing watchman's clocks since 1919, first as a member of a partnership with his father under the trade name of "Lathem Watchman's Clock Company" and since 1946 as an officer of respondent corporation, Lathem Time Recorder Company. The partnership was at times agent for other manufacturers of watchman's clocks who are at present competitors of respondents. For some of such concerns, respondents not only sold watchman's clocks but also serviced them. Among other watchman's clocks sold by the partnership were Detex Watchclocks and Chicago Watchclocks. During the time that the partnership

represented other concerns who are now competitors of respondents, they did not manufacture watchman's clocks, although they did sell a few under their own name in 1928, 1929, and the late 30's. During all of the period of time from 1919 until the present, a list has been kept with all pertinent information of every watchman's clock passing through the shop of first the partnership and since 1946, the shop of the corporate respondent. This list has been continuous since 1919 and now consists of 18,000 names or more.

Since the corporate respondent was organized in 1946 it has sent out at different times a form letter to all the names on the above-mentioned list and also to other concerns who respondents had reason to believe used watchman's clocks, whether or not such clocks had ever been in respondents' shop. Said form letter was as follows:

We have not cleaned, oiled or adjusted your night watchman's clock within two years.

This expensive equipment will wear fast if allowed to run dry. No oil will last longer than two years in a watchclock.

May we send you a loan clock like yours, without rental charge, to use while yours can be sent here for inspection, oiling or repairs.

We will allow you a 20% discount on service work now.

If you have less than half a box of paper record dials let us send another box, don't run out.

We will appreciate hearing from you on the attached card. Please reply.

The sentence "We will allow you a 20% discount on service work now" was, omitted from form letters sent out after May 23, 1949.

Watchman's clocks manufactured by respondents' competitors sent to respondents for servicing or repairing have in many instances had the name of the manufacturer concealed or obscured when returned to the owners. In many instances, the time face dial bearing the name of the manufacturer has been covered with a time face dial bearing no name. In some instances the time face dial was mutilated and needed replacing. and in some instances it did not. In addition to obscuring the name of the maker on the time face dial, the name of the maker on the inside of the clock was obscured or concealed by reversing the plate bearing the name and address of the maker. On the blank side of such plate the respondents bradded a metal plate bearing the inscription:

For

Paper Record Dials—Repairs
Write or Wire

LATHEM WATCHMAN'S CLOCK Co. 76 Third St., N. W., Atlanta, Ga.

In some instances the metal plate bearing the inscription quoted above was bradded over the face of the plate bearing the name of the maker, without reversing the plate but effectively concealing or obscuring the name of the maker. Also, in some instances, the respondents, before sending the clocks back to the owners, have bradded a metal plate bearing the inscription quoted above on the outside of the leather carrying pouch.

In the case of one watchman's clock, in evidence, which had been serviced by the respondents, the name of the maker was obscured on the time face dial by covering it with a blank dial, although the original dial did not need replacing; the name of the maker was obscured in the back of the clock by reversing the plate and bradding on the metal plate bearing respondents' name; and also a decal was put in the back of the clock showing a date when the clock should be returned to respondents for cleaning. In addition to this another metal plate of respondents similar to the one described above was bradded to the outside of the leather carrying pouch. On this clock and case when returned to the owner by respondents, the name and address of respondents appeared in three different places, while the name of the maker was concealed or obscured in all places, except that the words "The Chicago" appeared in the back of the clock in a place where they were not likely to be seen by the owner of the clock.

PAR. Four. Through the acts and practices above set forth, respondents represented directly and by implication that they had previously cleaned, oiled, and adjusted the watchman's clocks in the possession of all those to whom the aforesaid form letters were addressed; that respondents had kept a record of the dates when such clocks were cleaned, oiled, or adjusted; that respondents were the manufacturers of watchman's clocks to which their marks of identification were attached; that respondents were successors to or representatives of competitive watchman's clock manufacturers: and that the addressees of the said letters would receive a special discount on the price of respondents' services if their watchman's clocks were sent to respondents for cleaning, oiling, and adjusting without delay.

PAR. Five. The aforesaid statements and representations were misleading and deceptive. In truth and in fact, respondents had not previously cleaned, oiled, or adjusted any watchman's clocks in the possession of many of those to whom the said form letter was sent. Respondents could not legitimately have had any record of the dates when such clocks were cleaned, oiled, or adjusted. Respondents were not the manufacturers of the watchman's clocks to which they attached their marks of identification as above set forth. Respondents were not successors to or representatives of any competitive watchman's clock manufacturers. The prices charged by respondents for their servicing and cleaning, oiling, and adjusting watchman's clocks that were sent to them in response to the aforesaid letters were the usual and customary prices charged by respondents for such services.

Par. Six. Among manufacturers of watchman's clocks the cleaning, oiling, adjusting, and repairing of such clocks as they have sold is an important part of the business, in some instances accounting for approximately one-half the revenue of the manufacturer.

PAR. Seven. The use by the respondents of the aforesaid unfair and deceptive acts and practices in connection with their business has had and now has the capacity and tendency to mislead and deceive a substantial portion of the owners and users of watchman's clocks made by respondents' competitors and has caused them to send such watchman's clocks to respondents for cleaning, oiling, adjusting, and repairing. The effect of the aforesaid acts and practices of the respondents is not limited, however, to an unfair advantage obtained by the respondents in the servicing and repairing of watchman's clocks. When the respondents get a watchman's clock manufactured by a competitor into their place of business for servicing as a result of the misleading and deceptive statements hereinabove described, they are in a position to point out, and have pointed out, to the owner of the clock the defects of this particular clock and the claimed superiority of their own watchman's clocks, and thus enhance the sale of their own such clocks. As a result of the aforesaid acts and practices, trade has been unfairly diverted from respondents' competitors.

Conclusion. The acts and practices of the respondents as hereinabove found are all to the prejudice and injury of the public and respondents' competitors, and constitute unfair and deceptive acts and practices and unfair methods of competition within the intent and meaning of the Federal Trade Commission Act.

- It is ordered, That the respondent Lathem Time Recorder Company, a corporation, its officers, and the respondents Louis P. Lathem, Sr., Louis P. Lathem, Jr., and Harrison G. Hooper, individually and as officers of respondent corporation, and said respondents' agents, representatives, and employees, directly or through any corporate or other device, in or in connection with the sale or offering for sale, or servicing or repairing, or solicitation of orders for the servicing or repairing, of watchman's clocks or other time-recording devices in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:
- (1) Representing, directly or indirectly, that they or any of them have previously serviced or repaired any watchman's clock or other time-recording device which has not in fact been previously serviced or repaired by them or any of them.
- (2) Representing, directly or indirectly, that they or any of them have a record of the date when any watchman's clock or other time-recording device, in the possession of another, was last serviced or repaired, when such is not a fact.
- (3) Representing, directly or indirectly, that they or any of them are successors to or representatives of any manufacturer of watchman's clocks or other time-recording devices, when such is not a fact.
- (4) Representing, directly or indirectly, that the price which is charged for servicing or repairing watchman's clocks or other time-recording devices is a special price, when in fact the price charged is that customarily and usually

charged in the ordinary course of their business.

(5) Representing, directly or indirectly, that they or any of them are the manufacturers of any watchman's clock or other time-recording device which is not in fact manufactured by them or any of them.

(6) Removing, mutilating, concealing, or obscuring the manufacturer's name on any watchman's clock or other time-recording device, serviced or repaired by them, except insofar as is necessary in the proper servicing or repairing of such watchman's clock or other time-recording device.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth the manner and form in which they have complied with this order.

By the Commission, Commissioner Carretta not participating for the reason that oral argument was heard prior to his appointment to the Commission.

Issued: February 6, 1953.

[SEAL]

D. C. DANIEL, Secretary.

[F. R. Doc. 53-4215; Filed, May 12, 1953; 8:53 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter II — Federal Housing Administration, Housing and Home Finance Agency

Subchapter D—Multifamily and Group Housing Insuranco

PART 232—MULTIFAMILY HOUSING INSUR-ANCE: ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING MULTIFAMILY HOUSING

PREPAYMENT PRIVILEGE AND LATE CHARGE
Section 232 14 is hereby amended to

Section 232.14 is hereby amended to read as follows:

§ 232.14 Prepayment privilege and late charge. The mortgage must contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date after giving to the mortgagee 30 days' notice in writing in advance of its intention to so prepay. The mortgagee may, however, include in the mortgage a provision for such additional charge in the event of prepayment of principal as may be agreed upon between the mortgagor and mortgagee: Provided, however, That the mortgagor must be permitted to prepay up to 15 percent of the original principal amount of the mortgage in any one calendar year without any such additional charge. The mortgage may provide for a charge by the mortgagee of a "late charge," not to exceed 2 cents for each dollar of each payment more than 15 days in arrears, to cover the extra expense involved in handling delinquent payments.

(Sec. 211, as added by sec. 3, 52 Stat. 23; 12 U. S. C. 1716b. Interprets or applies sec. 297, 48 Stat. 1252, as amended; 12 U. S. C. 1713)

Issued at Washington, D. C., May 6, 1953.

GUY T. O. HOLLYDAY, Federal Housing Commissioner.

[F. R. Doc. 53-4187; Filed, May 12, 1953; 8:47 a, m.]

PART 241—COOPERATIVE HOUSING INSUR-ANCE; ELIGIBILITY REQUIREMENTS FOR PROJECT MOSTGAGE

PREPAYMENT PRIVILEGE AND LATE CHARGE Section 241.13 is hereby amended to to read as follows:

§ 241.13 Prepayment privilege and late charge. The mortgage must contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date after giving to the mortgagee 30 days' notice in writing in advance of its intention to so prepay. The mortgagee may, however, include in the mortgage a provision for such additional charge in the event of prepayment of principal as may be agreed upon between the mortgagor and mortgagee: Provided, however That the mortgagor must be permitted to prepay up to 15 percent of the original principal amount of the mortgage in any one calendar year without any such additional charge, and no such additional charge for prepayment may be made where such prepayment results from the release of individual properties in accordance with the provisions of a mortgage upon a release clause project. The mortgage may provide for a charge by the mortgagee of a "late charge," not to exceed 2 cents for each dollar of each payment more than 15 days in arrears. to cover the extra expense involved in handling delinquent payments.

(Sec. 211, 52 Stat. 23; 12 U. S. C. 1715b. Interprets or applies sec. 114, 64 Stat. 54; 12 U. S. C. 1715e)

Issued at Washington, D. C., May 6, 1953.

GUY T. O. HOLLYDAY, Federal Housing Commissioner.

[F. R. Doc. 53-4183; Filed, May 12, 1953; 8:46 a. m.]

Subchapter I-War Rental Housing Insurance

PART 280—WAR RENTAL HOUSING INSUR-ANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING MULTIPALITY RENTAL HOUSING

RIGHTS AND REMEDIES OF HORTGAGEE IN EVENT OF DEFAULT OR FORECLOSURE AND LATE CHARGE

Section 280.18 is hereby amended to read as follows:

§ 280.18 Rights and remedies of mortgages in event of default or fore-closure and late charge. The mortgage must contain a provision or provisions, satisfactory to the Commissioner, giving to the mortgage, in the event of default or foreclosure of the mortgage, such rights and remedies for the protection and preservation of the property covered by the mortgage and the income there-

from, as are available under the law or custom of the jurisdiction. The mortgage may provide for a charge by the mortgagee of a "late charge," not to exceed 2 cents for each dollar of each payment more than 15 days in arrears, to cover the extra expense involved in handling delinquent payments.

(Sec. 607, as added by sec. 1, 55 Stat. 61; 12 U. S. C. and Sup., 1742. Interprets or applies sec. 608, as added by sec. 11, 56 Stat. 303, as amended; 12 U.S. C. and Sup., 1743)

Issued at Washington, D. C., May 6, 1953.

> GUY T. O. HOLLYDAY, Federal Housing Commissioner

[F. R. Doc. 53-4184; Filed, May 12, 1953; 8:46 a. m.]

PART 283-MULTIFAMILY WAR HOUSING INSURANCE: ELIGIBILITY REQUIREMENTS OF MORTGAGE UNDER SECTION 608 PUR-SUANT TO SECTION 610 OF THE NATIONAL Housing Act

RIGHTS AND REMEDIES OF MORTGAGEE IN EVENT OF DEFAULT OR FORECLOSURE AND LATE CHARGE

Section 283.18 hereby amended to read as follows:

§ 283.18 Rights and remedies of mortgagee in event of default or foreclosure and late charge. The mortgage must contain a provision or provisions, satisfactory to the Commissioner, giving to the mortgagee, in the event of default or foreclosure of the mortgage, such rights and remedies for the protection and preservation of the property covered by the mortgage and the income therefrom, as are available under the law or custom of the jurisdiction. The mortgage may provide for a charge by the mortgagee of a "late charge" not to exceed 2 cents for each dollar of each payment more than 15 days in arrears, to cover the extra expense mvolved in handling delinquent payments. (Sec. 607, as added by sec. 1, 55 Stat. 61; 12 U. S. C. and Sup., 1742. Interprets or applies sec. 608, as added by sec. 11, 56 Stat.

303, as amended; 12 U.S.C. and Sup., 1743)

Issued at Washington, D. C., May 6. 1953.

GUY T. O. HOLLYDAY. Federal Housing Commissioner

[F. R. Doc. 53-4186; Filed, May 12, 1953; 8:47 a. m.]

Subchapter M-Military Housing Insurance PART 292—ELIGIBILITY REQUIREMENTS FOR MILITARY HOUSING INSURANCE

RIGHTS AND REMEDIES OF MORTGAGEE IN EVENT OF DEFAULT OR FORECLOSURE AND LATE CHARGE

Section 292.18 is hereby amended to read as follows:

§ 292.18 Rights and remedies of mortgagee in event of default or foreclosure and late charge. The mortgage must contain a provision or provisions, satisfactory to the Commissioner, giving to the mortgagee, in the event of default or

foreclosure of the mortgage, such rights and remedies for the protection and preservation of the property covered by the mortgage and the income therefrom. as are available under the law or custom of the jurisdiction. The mortgage may provide for a charge by the mortgagee of a "late charge." not to exceed 2 cents for each dollar of each payment more than 15 days in arrears, to cover the extra expense involved in handling delinquent payments.

(Sec. 808, 63 Stat. 570; 12 U.S. C. 1748g)

Issued at Washington, D. C., May 6,

GUY T. O. HOLLYDAY, Federal Housing Commissioner

[F. R. Doc. 53-4185; Filed, May 12, 1953; 8:47-a. m.]

Subchapter O-National Defense Rental Housing Insurance

PART 296-ELIGIBILITY REQUIREMENTS FOR NATIONAL DEFENSE RENTAL HOUSING INSURANCE

PREPAYMENT PRIVILEGE AND LATE CHARGE Section 296.14 is hereby amended to read as follows:

§ 296.14 Prepayment -privilege and late charge. The mortgage must contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date after giving to the mortgagee 30 days' notice in writing in advance of its intention to so prepay. The mortgagee may, however, include in the mortgage a provision for such additional charge in the event of prepayment of principal as may be agreed upon between the mortgagor and mortgagee: Provided, however That the mortgagor must be permitted to prepay up to 15 percent of the original principal amount of the mortgage in any one calendar year without any such additional charge. The mortgage may provide for a charge by the mortgagee of a "late charge," not to exceed 2 cents for each dollar of each payment more than 15 days in arrears, to cover the extra expense involved in handling delinquent payments.

(Sec. 907, 65 Stat. 301; 12 U.S. C. 1750f)

Issued at Washington, D. C., May 6. 1953.

GUY T. O. HOLLYDAY, Federal Housing Commissioner

[F. R. Doc. 53-4188; Filed, May 12, 1953; 8:47 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A-Income and Excess Profits Taxes [Regs. 130; T. D. 6010]

PART 40-EXCESS PROFITS TAX: TAXABLE YEARS ENDING AFTER JUNE 30, 1950

EFFECT ON EXCESS PROFITS CREDIT OF LOANS TO FOREIGN SUBSIDIARY CORPORATION

On July 10, 1952, notice of proposed rule making, regarding amendments to Regulations 130 (26 CFR Part 40) with respect to the effect on the excess profits credit based on income of loans by a member of a controlled group of corporations to another member of the same group, was published in the FEDERAL REGISTER (17 F. R. 6201) After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments to Regulations 130 set forth below are hereby adopted.

PARAGRAPH 1. There is inserted immediately preceding the last sentence of § 40.435-6 (b) (5) the following: "The reduction under section 435 (f) (1) (B) is required whether or not such other member of the controlled group is subject to the excess profits tax, for example, in a case in which such other member is a foreign corporation not engaged in trade or business within the United States."

Par. 2. There is inserted at the end of § 40.435-7 (c) (5) the following: " adjustment under section 435 (g) (7) is required whether or not such other corporation is subject to the excess profits tax, for example, in a case in which such other corporation is a foreign corporation not engaged in trade or business

within the United States."

Par. 3. Section 40.442-3 (d) (1), as amended by Treasury Decision 5973, approved January 16, 1953, is further amended by inserting after the third sentence thereof the following: "The exclusion from total assets of loans to a member of a controlled group of corporations of which the taxpayer is a member is required whether or not such other member of the controlled group is subject to the excess profits tax, for example, in a case in which such other member is a foreign corporation not engaged in trade or business within the United States."

(Secs. 62 and 3791, Internal Revenue Code (53 Stat. 32, 467; 26 U. S. C. 62, 3791))

T. COLETIAN ANDREWS. Commissioner of Internal Revenue.

Approved. May 7, 1953.

M. B. Folsom, Acting Secretary of the Treasury.

[F. R. Doc. 53-4217; Filed, May 12, 1953; 8:54 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

Subchapter A-Bureau of Accounts

PART 261—CLAIMS FOR REPLACEMENT OF VALUABLES, OR THE VALUE THEREOF, SHIPPED PURSUANT TO THE GOVERNMENT LOSSES IN SHIPMENT ACT

REPORT OF SHIPMENT

Part 261, Subchapter A, Chapter II, Title 31 of the Code of Federal Regulations of the United States of America (appearing also as Treasury Department Circular No. 577 dated August 13, 1937. as amended) is hereby amended by revising § 261.6 to read as follows:

Report of shipment. promptly as possible after June 30 of each year consignors shall render to the Secretary of the Treasury, Treasury Department, Washington 25, D. C., for the attention of the Bureau of Accounts, Deposits Branch, a consolidated report, on Form 10DD revised, of shipments of valuables made during the preceding twelve months.

(Sec. 6, 50 Stat. 480; 5 U. S. C. 134e)

[SEAL] G. M. HUMPHREY, Secretary of the Treasury.

MAY 7, 1953.

[F. R. Doc. 53-4216; Filed, May 12, 1953; 8:53 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter E-Organized Reserves

PART 561—ARMY RESERVE

APPOINTMENTS

Paragraph (d) of § 561.20 is rescinded and the following substituted therefor:

§ 561.20 Appointment of professional and technical personnel as Reserve commissioned officers of the Army.

(d) Limitations on appointments. Appointments will be limited to:

(i) Those necessary to fill existing vacancies in the Ready Reserve troop program units, and for mobilization designation vacancies when there are no qualified officers of appropriate or lower grade available to fill such vacancies.

(ii) Those necessary to meet the need for Ready Reserve reinforcements under quotas announced by the Department of the Army.

(iii) Those necessary to meet the need for officers for active duty.

(2) Applications of qualified applicants for whom no vacancy exists under subparagraph (1) of this paragraph will be processed and, if found suitable for appointment, will be forwarded with recommendations through channels to The Adjutant General, Department of the Army, Washington 25, D. C., Attn: AGPR-A.

[C1, SR 140-105-8, April 28, 1953] (R. S. 161: 5 U. S. C. 22. Interprets or applies 66 Stat. 481)

[SEAL] WM. E. BERGIN, Major General, U.S. Army, The Adjutant General.

[F. R. Doc. 53-4214; Filed, May 12, 1953; 8:53 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—National Production Authority, Department of Commerce

[NPA Order M-96, Revocation]

M-96-SPINNING GRADES OF CHRYSOTILE ASBESTOS FIBRE

REVOCATION

NPA Order M-96 (18 F. R. 1814) 1S hereby revoked.

No. 92---2

This revocation does not relieve any person of any obligation or liability incurred under NPA Order M-96 as originally issued or as thereafter amended. nor deprive any person of any rights received or accrued under said order prior to the effective date of this revocation.

(64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This revocation is effective May 12, 1953.

> NATIONAL PRODUCTION AUTHORITY, By George W. Auxier, Executive Secretary.

[F. R. Doc. 53-4296; Filed, May 12, 1953; 11:46 a. m.]

[NPA Order M-102, Revocation]

M-102-CRUSHING BORT, DIAMOND POW-DER OR DUST, AND UNRECLAIMED DIA-MOND MATERIAL

REVOCATION

NPA Order M-102 (17 F. R. 2229) is hereby revoked.

This revocation does not relieve any person of any obligation or liability incurred under NPA Order M-102, nor deprive any person of any rights received or accrued under said order prior to the effective date of this revocation.

(64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This revocation is effective May 12. 1953.

> NATIONAL PRODUCTION AUTHORITY, By George W. Auxier, Executive Secretary.

[F. R. Doc. 53-4297; Filed, May 12, 1953; 11:46 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204-DANGER ZONE REGULATIONS

PAMLICO SOUND, BOGUE SOUND AND ADJACENT WATERS, NORTH CAROLINA

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8. 1917 (40 Stat. 266; 33 U.S. C. 1) paragraph (b) of § 204.55 establishing a danger zone in Bogue Sound and adjacent waters of Atlantic Ocean, North Carolina, is hereby revoked as follows:

§ 204.55 Pamlico Sound, Bogue Sound, and adjacent waters, N. C., danger zones for Marine Corps operations. * * *

(b) Bombing area in Bogue Sound and adjacent waters in Atlantic Ocean. [Revoked].

[Regs., April 17, 1953-ENGWO] (40 Stat. 266; 33 U.S. C. 1)

[SEAL] WM. E. BERGIN, Major General, U.S. Army, The Adjutant General.

[F. R. Doc. 53-4213; Filed, May 12, 1953; 8:52 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I-Veterans' Administration

PART 5—CENTRAL COMMITTEE ON WATERS AND FORFEITURES AND FIELD COMMUTTEES ON WAIVERS

A new Part 5 is added as follows:

OVERPAYMENTS

Sec. Overpayments that may be considered. 5.0

5.1 Legislation authorizing relief. 5.2

Scope of decisions. Interpretations of provisions.

FORFEITURE QUESTIONS

Juricdiction. 5.4 5.5 When forfeiture questions arise.

Actions preliminary to submissions.

Submission of forfeiture questions.

Determinations under section 4, Public Law 144, 78th Congress.

Decisions and actions pursuant thereto.

ADMINISTRATIVE PROVISIONS

- 5.10 Central committee on waivers and forfeltures.
- Committees on waivers in field offices. Juricdiction of committees in field offices
- 5.13 Administrative reviews.

AUTHORITY: §§ 5.0 to 5.13 issued under sec. 5, 43 Stat. 693, as amended, sec. 2, 46 Stat. 1016, cec. 7, 48 Stat. 9; 38 U. S. C. 11a, 426, 707. Interpret or apply secs. 23, 504, 43 Stat. 615, 629, as amended, cec. 4, 46 Stat. 523, as amended, cec. 11, 15, 48 Stat. 10, 11, sec. 9, 63 Stat. 623 and 150 Stat. 10, 11, sec. 9, 150 Stat. 623 and 150 Stat. 10, 11, sec. 9, 150 Stat. 50 Stat. 692, sec. 1, 53 Stat. 1252, secs. 1, 609, 54 Stat. 1193, 1013, secs. 1, 4, 57 Stat. 554, 555, sec. 1500, 53 Stat. 300, sec. 1, 60 Stat. 903, cec. 9, 63 Stat. 35, Vet. Reg. 1 (a), Part VIII, as amended, sees 270, 271, 68 Stat. 631; 33 U. S. C. 33, 36, 453, 507a, 510, 555, 637, 715, 717 note, 727, 723, 739, 809, 858, ch. 12 note.

OVERPAYLIENTS

§ 5.0 Overpayments that may be considered. (a) The central committee on waivers and forfeitures and the field committees on waivers have jurisdiction to determine whether there will be a waiver of recovery of overpayments, any indebtedness of the kind specified in paragraph (d) of this section, and erroneous payments (hereinafter referred to as overpayments) under the General Law, the acts providing for service pension, the War Risk Insurance Act, the Vocational Rehabilitation Act, the World War Veterans' Act, 1924, Public No. 2, 73d Congress, including World War I emergency officer's retirement pay thereunder, Public Nos. 78, 141 and 484, of the 73d Congress, Public No. 746, 76th Congress, the National Service Life Insurance Act of 1940, the Servicemen's Readjustment Act of 1944, Public Law 28, 82d Congress, Title II of Public Law 550, 82d Congress; or under an amend-ment of any of those statutory provisions; where such overpayments are submitted by the finance activity for consideration under the statutory provisions cited in § 5.1, except (1) these cases that are under the jurisdiction of the loan guaranty committees on waivers and compromises, §§ 36.4381 and 36.4382, of this chapter; (2) those cases in which an overpayment of compensation or pension is made to a person because of his having entered an active duty. (3) readjustment allowance paid under Title V

of the Servicemen's Readjustment Act of 1944 during the lifetime of the veteran: (4) National Service life insurance overpayments resulting from an authorized change in option; (5) World War I adjusted compensation overpayments; (6) and those cases in which there is not in effect an award of benefits other than insurance and the overpayment resulted from payment to an insured under a United States Government life insurance or a National Service life insurance contract.

(b) In any case where a subsistence allowance overpayment that was made to a veteran for any period beginning on or after July 13, 1950, has not been recovered or waived, these committees have jurisdiction under section 7, Public Law 610, 81st Congress, to determine, after a hearing, whether the overpayment was the result of willful or negligent failure of a school to report to the Veterans Administration, as required by applicable regulation or contract, unauthorized or excessive absences from a course in which the veteran has enrolled, or the discontinuance or interruption of a course by the veteran, and to determine the school's liability for such overpayment. As to the liability of the school, the principles set forth in § 21.113 of this chapter are for application. In any case referred under said section 7, the committee on waivers will assume jurisdiction over both the school and the veteran and in making a final determination may (1) waive recovery if it finds that relief should be afforded to the veteran pursuant to existing regulations: or (2) determine whether there is negligence and liability as to the school (a finding that the school is not liable will require recovery from the veteran unless the overpayment is waived as to him) or (3) hold both liable if it finds that the veteran is not entitled to relief, and that there was willful or negligent failure on the part of the school. A waiver as to the veteran will automatically preclude recovery from the school. In the event a hearing is not requested, the action of the committee will be based upon the record. Hearings will be held by regional committees on waivers when requested irrespective of the amount involved.

(c) In any case where the provisions of section 266 of the Veterans' Readjustment Assistance Act of 1952 (Public Law 550, 82d Congress) are applicable, the liability of the educational institution or training establishment will be determined according to the provisions of § 21.2304 of this chapter, and a committee on waivers or the central committee on waivers and forfeitures is without jurisdiction. However, as to the veteran these committees have jurisdiction to consider all overpayments of education and training allowance and are authorized to determine under section 271 of said statute whether recovery of the overpayment or any part thereof may be waived. The finance activity in submitting such cases for consideration and the committee on waivers or the central committee on waivers and forfeitures in its decision, will be guided by established procedure and policy in regard to overpayments.

(d) These committees also have jurisdiction to determine whether there will be a waiver of collection in properly submitted cases of indebtedness due the Veterans' Administration because of, or in connection with, the hospitalization, domiciliary care, or outpatient treatment of a veteran, a person who has claimed to be a veteran, or a person to whom such benefits have been granted on the supposition that he is an eligible veteran.

§ 5.1 Legislation authorizing relief. (a) The legislation under which relief from overpayments may be granted provides that there shall be no recovery of payments from any person who in the judgment of the Administrator is without fault on his part and where in the judgment of the Administrator such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience. (Section 28, World War Veterans' Act, 1924, as amended: 38 U.S. C. 453.) also section 4, Public No. 323, 71st Congress, as preserved and continued by Public No. 536, 71st Congress, 38 U.S. C. 33; section 7, Public No. 2, 73d Congress, 38 U. S. C. 707 Public No. 324, 76th Congress, 38 U. S. C. 36; section 609, Public No. 801, 76th Congress, 38 U.S. C. 809; section 1, Public No. 866, 76th Congress, 38 U.S. C. 507a, section 1, Public Law 144, 78th Congress, 38 U.S. C. 727; section 1500, Public Law 346, 78th Congress, 38 U.S.C. 697 section 1 (G), Public Law 662, 79th Congress, 38 U.S. C. 739; section 7, Public Law 610, 81st Congress, 38 U.S.C. ch. 12; and section 271, Public Law 550, 82d Congress.

(b) The statutes enumerated in paragraph (a) of this section do not affect, retroactively recoveries accomplished prior to the dates of their passage unless otherwise provided, and furthermore, they do not authorize waiver of recovery of moneys recovered prior to consideration of the case by the committee. See also section 5, Public No. 866, 76th Congress, 38 U.S. C. 454a, and § 8.60 of this

§ 5.2 Scope of decisions. The jurisdiction of committees on waivers, including the central committee on waivers and forfeitures, is limited to consideration of waiver or nonwaiver. A decision of nonwaiver by a committee leaves to the finance or accounting officers the manner of recovery or collection. It is within the discretion of such committees to waive recovery as to certain persons, and decline to waive recovery as to certain other persons whose claims are based on the same veteran's service. It is also within the discretion of the committees to waive or decline to waive recovery from specific benefits or sources. except that a committee shall not waive recovery out of insurance of an indebtedness secured thereby, 1. e., an insurance overpayment or illegal payment made to the insured although in appropriate cases it is proper to waive recovery of any or all of such indebtedness out of benefits other than insurance benefits then or thereafter payable to the insured.

§ 5.3 Interpretations of provisions. (a) The word "payments" as used in the statutes authorizing relief means pay-

ments made in pursuance of an award to cover benefits authorized by legislation administered by the Veterans' Administration. The fact that money belonging to the Government has come into the possession of a person other than the one entitled thereto shall not bar a committee from waiving recovery of the overpayment if a waiver is otherwise warranted under the statutory provisions. Receipt by one having no title or authority to negotiate a check issued to a claimant after his death is not payment within the purview of the above-cited

statutory provisions.
(b) The phrase "any person" which now appears in section 28, World War Veterans Act, 1924, as amended (section 453, Title 38, U.S. Code), was substituted therein for "any beneficiary" which appeared in said section 28, as originally enacted. This change was made by Public No. 585, 70th Congress, approved May

29, 1928.

(c) Absence of fault alone on the part of the person overpaid is not ground for waiver. A further finding that recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience must coexist. The word "fault" as used in the abovecited statutory provision is qualified by the words "on his part." It therefore follows that although the Veterans Administration may have been at fault in making a payment, that fact alone does not relieve the payee if there has been "fault on his part." In other words, there can be no balancing of faults, and hence, when it has been determined that a claimant is at fault, the committee is without jurisdiction to waive. What constitutes fault must necessarily depend upon the facts of each case; its determination must be made in the same manner and by application of the same principles that a court of equity would follow in determining whether a petitioner "comes into equity with clean hands." Fault does not necessarily involve fraudulent intent or connivance. It is sufficient to establish that claimant knew, or-by the exercise of reasonable care could have ascertained that he was not entitled to the payment in question.

(d) What would, or would not constitute defeat of the purpose of benefits otherwise authorized, within the meaning of the statute, must depend on the facts in the individual case. No set rule may be laid down for the application of this provision, but great latitude is permitted for the exercise of the discretion delegated. The word "purpose" is significant in that while recovery might defeat benefits, it would not necessarily defeat the purpose of said benefits. There can be no defeat of the purpose of "benefits otherwise authorized" unless the person overpaid has received, or is entitled to receive, benefits subsequent to the date of the enactment of the World War

Veterans' Act, 1924.

(e) The clause "or would be against equity and good conscience" is not susceptible of exact definition. Its meaning must be ascertained by resort, generally to the established principles of equity. The incorporation of said clause into the above-cited statutory provisions as an alternative to "would defeat the

purpose of benefits otherwise authorized" establishes the grant of broad remedial powers. One maxim of equity that may be applicable is that "he who comes into equity must come with clean hands." Another is that "he who seeks equity must do equity." There is an equitable principle that money paid under mistake cannot be recovered where the payee is entitled in equity and good conscience to retain it, as in the case of a payee who did not have legal title to the money but did have an equitable title thereto. Said principle applies also where the pavee has, by reason of the payment, relinquished a valuable right which he would otherwise have retained; or where the payee has, by reason of the payment, changed his position for the worse, as in the case of a person under legal disability whose guardian has disbursed, for the benefit of such person, money which he is now unable to recover.

FORFEITURE QUESTIONS

§ 5.4 Jurisdiction. The central committee on waivers and forfeitures has exclusive jurisdiction to consider and adjudicate questions of forfeiture relating to the submission of false or fraudulent evidence, or mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies. See section 504, World War Veterans' Act, 1924, as amended, 38 U.S. C. 555, as preserved and continued by section 11, Public No. 2, 73d Congress, 38 U. S. C. 711; section 15, Public No. 2, 73d Congress, 38 U.S. C. 715, section 9, Public No. 304, 75th Congress, 38 U.S. C. 510; section 4, Public Law 144, 78th Congress, 38 U.S. C. 728; section 1500, Public Law 346, 78th Congress, 38 U.S. C. 697; section 9, Public Law 23, 82d Congress, 38 U. S. C. 858; and section 270, Public Law 550, 82d Congress. This jurisdiction does not include questions of forfeiture under the National Service Life Insurance Act of 1940 (Public No. 801, 76th Congress) as amended, or under Title V of the Servicemen's Readjustment Act of 1944, as amended. The field committees on waivers have no jurisdiction over forfeiture questions.

§ 5.5 When forfeiture questions aruse. When an employee of the Veterans' Administration discovers what is thought to be a false or fraudulent affidavit, declaration, certificate, statement, voucher. paper, or writing purporting to be such, concerning any claim or the approval of any claim for compensation, maintenance and support allowance, pension, World War I emergency officers retirement pay, burial allowance, gratuitous indemnity under the Servicemen's Indemnity Act of 1951, hospital or domicillary care, subsistence allowance, benefits under the Servicemen's Readjustment Act of 1944, as amended, except Title V thereof, or benefits under Title II or III of the Veterans' Readjustment Assistance Act of 1952; or discovers evidence tending to show that any person who might be entitled to benefits under laws administered by the Veterans' Administration, including gratuitous indemnity under the Servicemen's Indemnity Act of 1951 and benefits under Title II or III of the Veterans' Readjustment Assist-

section 4, of Public Law 144, 78th Congress, of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies, such employee shall refer the case through channels to:

(a) The regional adjudication officer if the case is in a regional office or a field station within the territory of the regional office.

(b) The director, claims service, of the district office if the veteran or alleged veteran is deceased and the case is in his district office.

(c) The chief, claims division, veterans claims service, if the veteran or alleged veteran is alive and the claim is under the jurisdiction of central office.

(d) The chief, adjudicating division, dependents and beneficiaries claims service, if the veteran or alleged veteran is deceased and the claim is under the jurisdiction of central office.

§ 5.6 Actions preliminary to submissuons. (a) Where the question relates to what is thought to be false or fraudulent evidence, it shall be the duty of the official designated in § 5.5 to review the alleged false or fraudulent evidence and authorize an investigation when in his opinion there is reasonable assumption that such evidence is fraudulent, and when in his opinion any prior investigation is inadequate. Where the question involved is one of possible guilt of an offense mentioned in section 4. Public Law 144, 78th Congress, such official shall not request an investigation but shall refer the folder or folders to the central committee on waivers and forfeitures for development, with a letter or memorandum stating the known facts. However, the manager, Veterans' Administration regional office, Republic of the Philippines, may authorize an investigation in the Philippines for the purpose of procuring evidence of an offense named in said section 4, Public Law 144, as well as in those cases involving what is thought to be false or fraudulent evidence; and may also suspend or in death cases recommend suspension of payments if warranted by the circumstances.

(b) When an investigation is authorized because of what is thought to be false or fraudulent evidence, there shall be included requests that all available evidence bearing on the question be secured, that the persons accused of fraud be informed of the charges against them, and that they be afforded an opportunity to present an explanation of the acts upon which the charge of fraud is based or such defense as they may have. The investigation report shall show compliance with these requests.

§ 5.7 Submission of forfeiture questions. (a) When an investigation has been completed, or the evidence considered as provided in § 5.6 (a) and (b) the appropriate official designated in § 5.5 shall determine whether a submission to the central committee on waivers and forfeitures is warranted: and if he determines that it is, shall forward the evidence and the folder or folders to said committee for a decision as to whether there is a forfeiture of rights under the statutory provisions speci-

ance Act of 1952, has been guilty under fied in 6.5.4. A submission may also be made to the central committee on waivers and forfeitures by the assistant administrator (or the chairman, board of veterans appeals, the chief medical director, or the solicitor) for the service concerned if the facts warrant. Prior to the submission of the folder or folders to the central committee on waivers and forfeitures for consideration of what is though to be false or fraudulent evidence, payments shall be suspended as of the date of last payment, pending final action by that committee. Where the question is one of possible guilt of one of the offenses mentioned in section 4, Public Law 144, 78th Congress, payments in an active case shall not be suspended prior to the submission of the case to cald committee, except in those cases in the Philippines as provided in § 5.6 (a)

(b) In view of the drastic nature of the provisions for forfeiture prescribed by section 504, World War Veterans' Act, 1924, as amended; by section 15, Public No. 2, 73d Congress; by section 9, Public No. 304, 75th Congress; by section 1500, Public Law 346, 78th Congress; and by section 270, Public Law 550, 82d Congress, it is the duty of the Veterans' Administration to apply them only in those cases wherein it is established beyond a reasonable doubt that fraud has been committed. In submitting cases for consideration as to forfeiture, it shall be the duty of the official designated in § 5.5 or paragraph (a) of this section to specify the nature of the fraud charged. or suspected and to point out the documentary evidence upon which the charge is based. While the adequacy of evidence is in any case for the final determination of the central committee on waivers and forfeitures, cases should not be submitted on issues that are trivial or that do not fall within the purview of the statutory forfeiture provisions, or where the evidence is clearly insufficient to support the charge, or the file fails to show that the person charged has been afforded opportunity, when possible, for explanation or defense. In connection with the foregoing, it is to be borne in mind that the statutes relating to fraud are without retroactive application. The first statute prescribing forfeiture of rights as penalty for fraudulent claims was the act of August 9, 1921, which amended the War Risk Insurance Insurance Act.

§ 5.8 Determinations under section 4, Public Law 144, 78th Congress. Section 4, Public Law 144, 78th Congress, provides in part that "Any person shown by evidence satisfactory to the Administrator of Veterans Affairs to be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future benefits under laws administered by the Veterans' Administration pertaining to gratuities for veterans and their dependents: * * *" to any person who is not beyond the jurisdiction of the United States courts, no forfeiture for any of those offenses shall be declared except upon conviction in a court of competent jurisdiction, or otherwise after full notice and hearing

with representation by counsel, if desired. Pending trial or hearing, benefits may be suspended or apportioned. If in any case wherein forfeiture for such offenses has been declared, the person shall be later tried within the jurisdiction of the United States courts, and found not guilty of the same offense, other than because of the defense of the statute of limitations, the forfeiture may be lifted as of its effective date, but any apportioned payments made in the meantime shall be valid and charged against amounts otherwise payable.

§ 5.9 Decisions and actions pursuant thereto. (a) When it is determined that a forfeiture is in order, the central committee on waivers and forfeitures shall render a decision to that effect, which decision shall be final unless appeal therefrom to the Administrator of Veterans Affairs is made in accordance with existing appeals regulations and procedure. In any case where there has been a forfeiture of rights, the claims folder and the R & E folder shall be retained in central office during the lifetime of the person whose rights are forfeited. It is the duty of the service having jurisdiction over the benefits affected by the forfeiture to discontinue payments as of the proper definite date, by stop payment notice.

(b) When it is determined by the central committee on waivers and forfeitures that the evidence presented is insufficient to justify, a forfeiture of rights, said committee shall render a decision to that effect, which decision shall be final, subject to an administrative appeal by an assistant administrator or the solicitor. Any such appeal must be filed within 1 year from the date of the decision of the central committee on waivers and forfeitures.

ADMINISTRATIVE PROVISIONS

- § 5.10 Central committee on waivers and forfeitures. (a) The central committee is established in central office under a chairman and alternate chairmen. The chairman is administratively responsible to the assistant administrator for claims.
- (b) The central committee has original jurisdiction to consider and adjudicate:
- (1) All overpayments arising in central office and those properly referred to it, irrespective of amount.
- (2) All overpayments arising in regional and district offices wherein the amount involved is in excess of \$500.
- (3) All cases in which there is a request for an administrative review pursuant to § 5.13.
- (4) All questions involving forfeiture of rights under the statutes cited in § 5.4.
- (c) The chairman of the central committee is authorized by the Administrator to certify waivers of recovery of overpayments or of collection of indebtedness specified in §.5.0 (a), (b) (c), and (d) The alternate chairmen are authorized to perform this function in the absence of the chairman, or when directed by him.
- (d) The chairman shall determine what cases are within the committee's jurisdiction.

- (e) A decision by the central committee, rendered by the concurrence of three members, including the chairman or alternate chairman, shall be final, subject to an appeal to the Administrator of Veterans Affairs in accordance with existing appeals regulations and procedure.
- (f) The committee may review and modify its decisions upon the receipt of new and material evidence, or upon clear and unmistakable error.

§ 5.11 Committees on waivers in field offices. (a) In each district office and regional office, there is established a committee known as the district or regional committee on waivers, as the case may be, consisting of three members designated from among the employees of that office, whose service on the committee is in addition to their regular duties. No authorized certifying officer of the finance activity shall serve as a member of this committee. In district offices, the district manager shall designate members of the committee which shall function directly under, and be administratively responsible to, the director, claims service. In regional offices, the manager shall designate the members of the committee, which shall function directly under, and be administratively responsible to, the adjudication officer. If the district or regional manager, as the case may be, considers that a larger committee is necessary because of unusual conditions, he may appoint additional members for the period during which such conditions prevail, but the membership of the committee shall not exceed seven. Questions of the jurisdiction of the committee and the assignment of cases to its members shall be determined by the chairman. The manager of the field office shall report to the chairman. central committee on waivers and forfeitures, the name of each person designated as a member of the committee on waivers and the name of each person appointed as chairman or alternate chairman.

(b) The committee on waivers shall have one chairman; and either one alternate chairman or two alternate chairmen, at the discretion of the manager. The chairman and alternate chairmen are members of the committee. The duties of the chairman shall be discharged by an alternate chairman when the chairman is absent or when he authorizes the alternate to do so. The chairman and the alternate chairmen have been delegated authority to certify waiver of recovery of overpayments.

§ 5.12. Jurisdiction of committees in field offices. (a) Where the amount involved is not more than \$500 and the case is properly before the committee under applicable Veterans Administration Regulations and administrative issues, a district or regional committee on waivers has authority to render a decision on an overpayment or other indebtedness. Such decision is final subject however to the right of the committee to reverse or modify its own decisions upon the receipt of new and material evidence or upon a showing of clear and unmistakable error; and subject further to the administrative review jurisdiction of the

central committee on waivers and forfeitures when a request for administrative review is duly filed and to an appeal to the Administrator of Veterans Affairs by a veteran or his dependent, or one so claiming, pursuant to established appeal procedure. No committee on waivers is authorized to reverse or modify a decision rendered by a committee on waivers of another field office or by the central committee on waivers and forfeitures.

(b) Where the amount of the overpayment or other indebtedness is more than \$500, it shall be referred by the committee on waivers to the central committee on waivers and forfeitures, without rendering a decision, but such committee on waivers shall furnish a brief setting forth a complete statement of facts, and its recommendations as to the decision, with reasons supporting the recommendations.

§ 5.13 Administrative reviews. Tho central committee on waivers and forfeitures has authority to make administrative reviews of decisions of committees on waivers. A request for an administrative review of any such decision may be made by (a) the claimant, his guardian. his agent duly authorized over the claimant's signature, or (b) on the part of the Veterans' Administration, by the manager of the district or regional office. The request must be in writing and, unless the committee extends the time, shall be presented within 60 days from receipt of notice of the field committee's action. An additional period of 30 days may be granted when, in the committee's judgment, exceptional circumstances justify. A decision rendered upon administrative review by the cen-A decision rendered tral committee on waivers and forfeitures shall be subject to the right of any assistant administrator concerned or the solicitor to appeal-to the Administrator of Veterans Affairs within 1 year from the date thereof.

This regulation is effective May 13, 1953.

[SEAL]

H. V STIRLING, Deputy Administrator

·[F. R. Door 53-4212; Filed, May 12, 1952; 8:52 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 8—POSTAGE STAMPS AND OTHER STAMPED PAPER AND SECURITIES

U. S. SAVINGS BONDS AND TREASURY SAVINGS CERTIFICATES

In § 8.29 United States savings bonds and Treasury savings certificates amend paragraph (c) to read as follows:

(c) Denominations; sale; publicity; requisitions; accountability. United States Savings bonds, issued by the Secretary of the Treasury in denominations of \$25, \$50, \$100, \$200, \$500, and \$1,000 maturity value, and in registered form only, shall be offered for sale at post offices of the first, second, and third classes and at such branches, stations, and fourth-class offices as the Bureau of Finance shall select and designate for

the purpose. Postmasters at designated savings-bond offices shall encourage the sale of savings bonds; they shall post conspicuously one or more placards calling the attention of the public to the advantages and availability of the bonds, shall keep on hand for discriminating distribution a supply of descriptive booklets, and shall maintain, at all times, an adequate supply of bonds for sale to the public. Requisitions for bonds (Form 911) shall be submitted by postmasters at central-accounting offices and Washington, D. C., to the Bureau of Finance, Division of Postal Savings Banking and Investments, and by postmasters at all other offices to their respective centralaccounting postmasters. Postmasters will be held accountable for all savings bonds sent them. Postmasters may order bond stock in emergencies by telegram. All telegrams addressed to the Post Office Department concerning savings bonds shall be sent "Official business. collect, special bill." Official messages between postmasters concerning savings bonds shall be sent "Official business, charge Post Office Department, special bill." Postmasters shall advise the branch of the telegraph company transmitting the message to refer the bill to its Washington, D. C., office for collection.

(R. S. 161, 396; secs. 304, 309, 42 Stat. 24, 25, sec. 2, 36 Stat. 815, as amended, sec. 6, 49 Stat. 21, as amended; 5 U. S. C. 22, 369, 31 U. S. C. 7576; 39 U. S. C. 753)

[SEAL]

Ross Rizley, Solicitor.

[F. R. Doc.-53-4190; Filed, May 12, 1953; 8:47 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[S. O. 865, Amdt. 35]
PART 95—CAR SERVICE

DEMURRAGE ON FREIGHT CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 7th day of May A. D. 1953.

Upon further consideration of Service Order No. 865 (15 F. R. 6197, 6256, 6330, 6452, 7800; 16 F. R. 320, 819, 1131, 2040, 2894, 3619, 5175, 6184, 7359, 8583, 9901, 10994, 11313, 12096, 13102; 17 F. R. 896, 1857, 2850, 3166, 3886, 4169, 4823, 4824, 5193, 5467, 5771, 5772, 5953, 6558; 18 F. R. 37, 1857, 2084) and good cause appearing therefor: It is ordered, That:

Section 95.865 Amendment No. 34 of Service Order No. 865, Demurrage on Freight Cars be, and it is hereby vacated. It is further ordered, That:

Section 95.865 Demurrage on Freight Cars of Service Order No. 865 as amended, be, and its is hereby suspended until 11:59 p. m., June 30, 1953, on all freight cars except cars described in the current Official Railway Equipment Register, Agent M. A. Zenobia's I. C. C. 306, supplements thereto and reissues thereof, as Class "F"—Flat Car Type, Class "LO"—Covered Hopper Type, and Class "LG"—Bulk Lading Container Type.

It is further ordered, That this amendment shall become effective at 7:00 a.m., May 16, 1953, and a copy be served upon the State railroad regulatory bodies of each State, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 1, 24 Stat. 379, as amended; 49 U. S. C. 1)

By the Commission, Division 3.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-4201; Filed, May 12, 1953; 8:50 a. m.]

TITLE 50-WILDLIFE

Chapter II—Alaska Game Commission

PART 165—SPECIAL PERMIT HUNTS
MISCELLANEOUS AMENDMENTS

Basis and purpose. To discontinue special permit hunts to reduce surplus animals in the bison herds, and for mountain sheep in certain areas because no longer required to lessen hunting pressure therein. To eliminate the special season for moose during December in the Palmer area, and in view of range limitations increase from 35 to 40 the number of permits to be issued for elk on Afognak Island.

1. Section 165.1 is amended to read as follows:

§ 165.1 Elk. Elk hunting on Afognak Island will be limited to holders of a special permit in addition to the 1954 fiscal year hunting license. The Commission will issue not to exceed 40 such permits. Application must be submitted on a form supplied by the Commission at Kodiak, Alaska, prior to September Applicants must provide suitable equipment for talting care of animals and must demonstrate their ability to handle firearms. Should the number of applicants exceed 40, a committee composed of the governor of the territory or his representative, and one disinterested citizen, shall prescribe on September 25 a nondiscriminatory method of issuing the limited number of permits to eligible applicants. Eligible applicants, after due notice, and upon submission of a money order, certified check, or bank draft for \$15.00, payable to the Treasurer of the United States, will be assued said special permit by the Executive Officer of the Commission.

Permittees must register with agents of the Commission at Kodiak, Alaska prior to and following the hunt.

Employees of the Alaska Game Commission and the Fish and Wildlife Service and persons who obtained permits in 1952 are not eligible for the above permits.

2. Sections 165.2 to 165.4, inclusive, are deleted.

(Sec. 10, 43 Stat. 744, as amended; 48 U.S. C. 199)

These amendments shall become effective July 1, 1953.

Earl N. Ohler,
Chairman and Commissioner
First Judicial Division.
Harry O. Brown,
Commissioner
Second Judicial Division.
Ardrew A. Simons,
Commissioner
Third Judicial Division.
Clarence J. Rhode,
Executive Officer.

APRIL 22, 1953.

[F. R. Doc. 53-4176; Filed, May 12, 1953; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 936]

FRESH BARTLETT PEARS, PLUMS, AND EL-BERTA PEACHES GROWN IN CALIFORNIA

NOTICE OF PROFOSED RULE MAKING WITH RESPECT TO EXPENSES AND FIXING OF RATES OF ASSESSMENT FOR 1953-54 SEASON

Consideration is being given to the following proposals submitted by the Control Committee, established under the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936, 18 F. R. 712) regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the Agricultural Marketing Agreement Act of 1937,

as amended, as the agency to administer the provisions thereof;

(a) That the Secretary of Agriculture find, with respect to Bartlett pears, early varieties of plums, late varieties of plums, and Elberta peaches, that expenses not to exceed the following amounts are likely to be incurred, during the season ending February 28, 1954, inclusive, by the Control Committee for the maintenance and functioning of such committee and the respective commodity committees established under the aforesaid amended marketing agreement and order:

- (1) Bartlett pears, \$24,483.80;
- (2) Early varieties of plums, \$16,-207.88;
- (3) Late varieties of plums, \$18,770.09, and
 - (4) Elberta peaches, \$19,109.48.

(b) That the Secretary of Agriculture fix, as each handler's pro rata share ofsuch expenses, the following rates of assessment which each handler shall pay in accordance with the provisions of said amended marketing agreement and order:

(1) 8½ mills (\$0.0085) per standard western pear box of Bartlett pears, or its equivalent in other containers or in bulk;

(2) 9 mills (\$0.009) per standard fourbasket crate of early varieties of plums, or its equivalent in other containers or in bulk;

(3) 9 mills (\$0.009) per standard fourbasket crate of late varieties of plums, or its equivalent in other containers or in bulk; and

(4) 4 mills (\$0.004) per California peach box of Elberta peaches, or its equivalent in other containers or in bulk.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposals may do so by submitting the same to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than the 10th day following publication of this notice in the Federal Register.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Issued this 8th day of May 1953.

[SEAL]

S. R. SMITH,

Director

Fruit and Vegetable Branch.
[F R. Doc. 53-4225; Filed, May 12, 1953; 8:56 a. m.]

[7 CFR Part 985]

[Docket No. AO-240]

HANDLING OF MILK IN MUSKEGON, MICH., MARKETING AREA

TENTATIVE DECISION WITH RESPECT TO PRO-POSED MARKETING AGREEMENT AND PRO-POSED ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Fart 900) a public hearing was conducted at Muskegon, Michigan, on January 21–25, inclusive, 1952, pursuant to notice thereof which was issued on January 5, 1952 (17 F R. 161)

Upon the basis of the evidence introduced at the hearing and the record thereof the Assistant Administrator, Production and Marketing Administration, on June 17, 1952, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision. This decision and notice of opportunity

(b) That the Secretary of Agriculture to file written exceptions thereto was a each handler's pro rata share of published in the Federal Register on ch expenses, the following rates of June 20, 1952 (17 F R. 5583)

On the basis of the exceptions filed by interested parties and a reexamination of the evidence with respect thereto, substantial changes were made in certain of the provisions proposed in the recommended decision. The changes include an increase in the Class I price differential, raising the proportion of total receipts from farmers which must be sold in the marketing area to qualify as a pool plant from 10 percent to 20 percent and making provision for a country plant type of operation to qualify as a pool plant, and altering the pricing of milk sold in the marketing area by handlers which do not operate pool plants. In order to afford all interested persons an opportunity to file exceptions which they may not have filed on the basis of the recommended decision, the issuance of a tentative decision has been decided upon as a means of affording such opportunity. Any person wishing to file exceptions to this tentative decision in any findings and conclusions contained therein with respect to any issue may do so by filing the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than 10 days after the publication of this tentative decision in the FEDERAL REGISTER.

Preliminary statement. The material issues of record related to:

(1) Whether the handling of milk in the Muskegon, Michigan, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce;

(2) Whether the issuance of a marketing order for the Muskegon, Michigan, marketing area will tend to effectuate the declared policy of the act;

(3) The extend of the marketing area;

(4) What milk should be priced under an order;

(5) The classification of milk and milk products;

(6) The termination and level of class prices;

(7) The method of distributing payments to producers; and

(8) Administrative provisions.

Findings and conclusions. Upon the basis of evidence adduced at the hearing and on the record thereof, it is hereby found and concluded that:

(1) Character of ocommerce. handling of milk produced for the Muskegon, Michigan, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk and its products. Substantial interstate movement occurs with respect to milk and the milk products produced therefrom in the supply area for the Muskegon fluid milk market. Producers supplying milk to distributors in the Muskegon marketing area have their farms intermingled with those of dairy farmers who ship to milk plants which regularly supply Detroit. The Detroit supply area, in turn, includes regular shippers located in Indiana and Ohio.

Also intermingled with the producers who supply this Muskegon fluid milk market are a large number of producers who are shipping milk to milk plants at which evaporated milk, butter, cheese, sweet cream, and dried milk and skim milk products are manufactured for sale throughout the United States. In fact it is common practice during the season of flush milk production for farmers to deliver directly to manufacturing plants a part or all of their milk approved for fluid consumption.

The flow of milk into the Muskegon fluid market is affected by the relationship of that market's prices to the prices paid by competing fluid markets and by the manufacturing milk plants. Price relationships which interrupt or interfere with the distribution of milk in this region to the fluid and manufacturing markets in accordance with the relative value of milk for such outlets tend to burden, obstruct, and affect interstate commerce in milk and its products.

The excess milk over and above fluid requirements for the Muskegon market is normally transferred to plants which manufacture butter, evaporated milk, and nonfat dry milk solids for sale in interstate markets. This excess milk represents principally the necessary reserve of milk to meet fluctuation in dally and seasonal supplies and requirements. In 1951 the reserve milk transferred to manufacturing plants amounted to 17 percent of total receipts from producers.

Prices paid for milk by the fluid market, if out of line with prices paid by manufacturing plants, tend to increase or reduce this quantity of milk which is produced under the sanitary requirements of the fluid market but must be utilized in manufactured products. Therefore, the prices paid producers supplying the fluid market must be maintained in reasonable alignment with prices paid to manufacturing producers. It is also necessary to prevent unfair competitive pricing of the fluid milk market's surplus which is transferred to manufacturing plants at a price lower than the price offered by manufacturing plants to their regular producers.

There is also direct interstate movement of pasteurized, bottled milk from the marketing area. Lake vessels docking at both Muskegon and Grand Haven are supplied with milk by dealers in the respective cities. These vessels travel to ports in Illinois, Wisconsin, and Ohio.

(2) Need for regulation. Marketing conditions in the Muskegon area indicate that the issuance of a marketing order, such as that set forth herein, will tend to effectuate the declared policy of the act with respect to milk produced for the Muskegon fluid milk market.

Stability of marketing conditions and reasonable certainty of an adequate supply of pure and wholesome milk can be assured for the Muskegon marketing area only when all milk handlers in the area have reasonably equal costs of milk according to use and only when farmers supplying the market receive substantially the same prices per hundredweight for milk of equal quality.

These conditions do not now exist. A cooperative association of producers supplies all the milk used by dealers whose plants are located in Muskegon and Muskegon Heights and to one whose plant is located in a nearby village. The

association sells milk on a class use basis whereby each of the distributors pays the same price for milk used in each of four specified classes. The association pools the sales returns, and each producer is paid the uniform price, subject only to variations in butterfat content and in seasonality of production.

A diversity of milk purchase plans is in effect at other plants in the area. One of the Grand Haven distributors testified that he purchased milk from producers on a "plant requirements" basis. He pays an announced price on all milk used at the plant, the bulk of such milk being bottled for sale as fluid milk and cream and smaller quantities being used in ice cream or for the manufacture of cottage cheese and similar products. Milk which this distributor cannot utilize in his plant is disposed of to milk manufacturing plants, and producers are paid the net utilization value of such milk. This distributor commonly depends upon purchases of supplemental milk in the fall season of low production and in the July and August? resort season of peak sales. He does not pay producers in accordance with seasonality of production. Another handler in the area testified that he also purchased on a plant requirement basis but bought only negligible quantities of supplemental milk.

A further variety of milk purchasing plans is provided by dealers operating plants outside the marketing area but from which some milk is sold in the area. Testimony based upon a comparison of producers' settlement statements showed that producers were paid at an announced price on varying percentages of their short-season deliveries, that this percentage may be changed without prior notice to the producer, and that neither the settlement statement nor any other communication from the distributor enabled producers to determine precisely on what basis they were being paid for milk.

These variations in price plans and in net prices paid to producers reflect different raw material costs to the various dealers who are selling milk in the marketing area. A condition of unequal costs among the dealers may cause them to attempt to economize by reducing prices to producers. This in turn would tend to stimulate successive price reductions by competitors. This development is contrary to the interests of producers and over a period of time may jeopardize an adequate supply of milk. Alternatively, some handlers may attempt to achieve equality by reducing the quantity of their purchases of milk in order to obtain the highest possible proportion of the higher valued uses of milk. This reaction, however, may result in intermittent shortages of supply for the market.

If producers receive widely varying prices for their milk, they tend to shift around milk dealers and to shift in and out of the market. Such shifts may become sufficiently frequent as to jeopardize a dependable supply of pure and wholesome milk.

A marketing agreement and order program is needed to establish and maintain orderly marketing conditions throughout

the marketing area. The auditing of the utilization of all milk received by handlers, the checking of butterfat tests and weights of all producer milk, and the publication of complete supply and use data for the market will aid in this objective by assuring producers that they will receive a proper accounting for their milk and by providing full information on market developments.

(3) Marketing area. The marketing area should be defined to include all of the territory within the outer boundaries of the cities of Muskegon and Grand Haven and the densely populated areas surrounding these cities. This may be accomplished by defining the marketing area to include all of the territory within the boundaries of Muskegon County and five townships in Ottawa County.

Producers who are members of the cooperative association which is the proponent of the order supply milk to the distributors serving customers in all portions of this area. The farms of these producing members are intermingled, with those of nonmembers serving the other distributors in the area. Moreover there is direct competition between dealers whose plants are located in each locality within the marketing area and dealers whose plants are located at one or more other points within the area.

Health regulations are substantially similar throughout the area. The regulations of the State of Michigan provide a uniform minimum standard and these standards are modified only by somewhat more rigid requirements in a few localities. Several of these local health regulations have recently been revised to a point where there is, now substantially complete acceptance in all portions of the marketing area of milk eligible for fluid use in any locality within the area.

The Muskegon marketing area has been defined on the basis of these inter-relationships of supply and distribution. The area so defined is a continuous, homogeneous area within which distributors should be charged the same price for milk used in a given class and producers be paid a uniform price.

One of the dealers whose plant is located in Grand Haven and a group of producers supplying that dealer contended that the territory served by this dealer should be excluded from the marketing area. However, much of his distributive business covers territory which is also served by handlers whose plants are located in Muskegon County. The handler's proposal that all the townships in Ottawa County be excluded disregards the fact that one Muskegon County handler has been serving the Spring Lake area, right up to the outskirts of Grand Haven, for over 20 years and that his routes have been extended into Grand Haven since health regulations were revised to permit such extension. The closeness of inter-dealer competition between Grand Haven and Muskegon is indicated by the fact that retail and wholesale prices in the two markets are usually identical.

Similarly, producers supplying a dealer whose plant is located in Whitehall and who distributes milk in that village, in Montague, and in two or three surrounding townships proposed that this area be

excluded. Again, however, the intercompetition, both on the supply side and in distribution, between this plant and other plants in the marketing area prohibit the exclusion of this territory.

Producers proposed that eight townships in Newaygo County be included in the marketing area. Testimony revealed that there is some distribution of milk in these townships from plants located in Muslegon County but that this represents a recent development. No data or reliable estimates were available to show the comparative volumes of milk served by such handlers as compared with sales by local handlers or from plants located outside the proposed area. Producers also proposed the inclusion of six towns in Oceana County. There was, however, no evidence that distributors from this territory are actively competing with handlers in the marketing area. Further, the handlers located in the marketing area do not regularly distribute milk in Oceana County, their interest being confined to the furnishing of comparatively small quantities of supplemental milk. Testimony revealed that no fluid milk plants are located in Robinson Township of Ottawa County. Since the distributors who are supplying milk to this township will be regulated by virtue of distribution in other portions of the marketing area, there is no need to include Robinson Township. In the circumstances, the townships in Oceana and Newaygo Counties and Robinson Township in Ottawa County have been omitted from the marketing area.

(4) Mill: to be priced. The milk to be regulated by the order should be that which is regularly delivered to plants from which milk is distributed in the marketing area. To be eligible for such distribution milk must be produced, processed, and distributed in conformity with applicable health regulations, but such compliance need not be specified in the order. The milk to be priced and pooled under the order should be that which constitutes the regular source of supply for the marketing area. Thus supply may be delineated by providing appropriate definitions of the terms "handler" "producer" and "pool plant"

A "handler" should be defined as any person who operates a pool plant, as hereinafter defined, or any plant in which milk is posteurized or packaged and from which Class I milk is disposed of in the marketing area. This definition includes wholesale and retail distribution of milk on routes or from stores. The definition should also include any cooperative association with respect to that milk for which the cooperative assumes the responsibility for obligations under the order, as in the case of surplus milk diverted for the account of the cooperative.

A few milk plants located outside the marketing area dispose of some milk on routes extending into the area. If the amount of such milk is not large, its sale has little or no effect on the marketing of milk in the area. Application of order pricing and payment provisions to these distributors would entail effort and expense without contributing significantly to orderly marketing in the area. At the hearing it was proposed that

handlers operating bottling plants outside the marketing area and disposing of not more than an average of 600 pounds of Class I milk per day on such routes be exempt from all except the reporting and auditing provisions of the order. Several handlers suggested lower limits on such exemptions, ranging down to 200 pounds per day. However, since the definition includes sales on routes partly within the marketing area as well as those wholly within the area, it is concluded that such exemption should be established at approximately the larger figure. Further, since cream, milk, skim milk, and partly skimmed items are in Class I, and since in terms of value these items are incommensurate on a weight basis, it is desirable to state the limitation in "points" rather than leaving it in terms of pounds of Class I products. For this purpose, a point is considered as either a half pint of cream or a quart of milk, skim milk or partly skimmed products, the approximate equivalent of 600 pounds being 300 points.

The term "producer" should be defined in order to identify those dairy farmers who are the producers of the regular supply of fluid milk and cream for the market, and to whom the minimum prices specified in the order should be paid. Determination of producer status should be made on the basis of delivery of milk from the producer's farm to a pool plant as hereinafter defined.

The producer definition should allow a handler occasionally to divert the milk of some producers to nonpool plants if the handler reports the milk as producer receipts at his pool plant. This provision will facilitate interplant movements of milk for the purpose of adjusting to short-time variations in supply and requirements without depriving the farmers producing the milk of their status as producers.

The determination of pool plant status is the essential part of the determination of which dairy farmers are to be included in the market-wide pool. Therefore, specific requirements for pool plants are needed to define the supply which is generally regarded as a part of the fluid market.

Since the supply area for the Muskegon market overlaps the supply areas of other fluid markets and the manufacturing milk production area, the pool plant definition should include a requirement that a substantial portion of the milk received at the plant be disposed of as fluid products in the marketing This requirement is intended to provide for including in the pool all of the plants which have significant fluid milk and cream sales in the marketing Fluid milk plants which primarily serve markets outside the marketing area but make a few sales inside the area, and plants which are primarily manufacturing milk plants would be excluded. Such plants cannot be regarded as a part of the Muskegon fluid milk and cream market.

The notice of hearing specified a requirement that 10 percent of the receipts from dairy farmers be disposed of as Class I in the marketing area. However, at the hearing the proponents asked that

the requirement be raised to 20 percent. The higher requirement will more effectively assure that any handler participating in the marketwide pool will have such a substantial share of his total sales in the marketing area as to consider it one of his primary sales outlets. On the other hand, handlers whose principal fluid milk distribution business is in markets other than Muskegon will not be required to pay order prices on their entire purchases of milk so long as their in-area sales remain less than 20 percent of their receipts from dairy farmers. Testimony at the hearing and the positions taken in briefs and exceptions also indicate that some plants may be close to the 10 percent figure whereas the 20 percent requirement does not appear likely to necessitate significant readiustments by any plant operators.

The Muskegon marketing area has so far been supplied exclusively by distributors who receive their supplies of milk from dairy farmers directly at the bottling plant. However, it appears desirable, in view of experience in other similar markets, to provide for the qualification as a pool plant of a country station type of operation, one at which milk is received from dairy farmers and shipped in bulk to the bottling plants from which distribution is made to wholesale and retail customers in the marketing area. Such a country station would be a pool plant only when 20 percent or more of its receipts was moved to pool plants from which milk is disposed of in the marketing area as Class I.

A definition of "other source" milk is included to distinguish it from the regular milk supply for the fluid market which is priced under the order. One category of such milk is represented by supplemental supplies purchased by pool plants from nonpool plants and received in bulk form, either in cans or tanks. Supplemental milk is commonly required during the resort season, mid-June through mid-September, when there is a large but temporary expansion in the demand for milk. There is also some demand for supplemental milk during the fall season of short supply, the quantities needed varying from season to season and as between handlers. No special pricing appears to be necessary for these supplemental supplies. was no testimony in the record that such supplies have significantly displaced outlets for producer milk. In these circumstances the allocation of producer milk to the highest classes of utilization appears to be a more effective means of minimizing the displacement of producer milk than a similar provision would be in larger markets. If a significant displacement of producer milk by other source supplies occurs under the order. corrective measures can be considered.

Another category of other source milk is represented by that which is sold in the marketing area from plants which do not have a sufficient proportion of inarea sales to qualify as pool plants. The record showed that there were plants in Grand Rapids and elsewhere from which milk was regularly distributed in the marketing area at wholesale and retail, mostly in packaged form. The operator of such a plant would be a handler by

reason of his distribution of Class I milk in the marketing area. He would be obligated to report to the market administrator his receipts of milk from all sources and its class utilization; such reports would be subject to verification by audit. The major proportion of sales from such plant would be outside the Muskegon marketing area and the competition both for sales and for the procurement of milk might differ substantially from that encountered by pool plant operators under the order. The milk distributed by the nonpool handler would, of course, have to meet the health requirements applicable to that portion of the marketing area in which milk was distributed.

To price and pool the milk received from dairy farmers at plants having only a small proportion of sales on routes in the marketing area would place the operators of such plants under the complete regulation of the order, while those with whom they compete in their primary markets would remain wholly unregulated. Further, such action would include in the marketwide pool under Muskegon considerable order volumes of milk produced primarily for the outside markets. The order should not regulate the prices paid to dairy farmers for all milk received at such plants. On the other hand provision must be made to insure that the milk disposed of as Class I milk in the marketing area on routes from such plants will not undermine the pricing and pooling requirements of this order.

The dual objectives of leaving operators of nonpool plants free of order pricmg in their primary markets and at the same time maintaining the integrity of the order pricing provisions within the marketing area can be achieved in this market, it is believed, by (1) measuring the amount, if any, by which dairy farmers delivering milk to a nonpool plant from which Class I milk is distributed on routes in the marketing area are being paid less than the equivalent of order prices. (2) dividing such amount by the number of hundredweights of milk sold as Class I from such plant to determine the rate of underpayment per hundredweight of Class I milk, and (3) assessing the rate per hundredweight of any such underpayment on the quantities of Class I milk distributed from the nonpool plant on routes within the marketing area. The rate of payment so assessed should. in no event, exceed the difference between the Class I and Class II prices. The difference between the Class II price and the Class I price, as the basis for maximum payment, will provide the assurance necessary to prevent the displacement of producer milk in Class I.

The order equivalent of the amounts payable to dairy farmers for milk delivered to a nonpool plant distributing Class I milk on routes in the area would be determined in the same manner as each pool plant handler's obligation for producer milk under the order. If payments to dairy farmers are equal to or mexcess of the value of milk at order prices, the nonpool plant would have been shown to have paid the equivalent of order prices for its milk. Any deficit would properly be assignable to the pro-

curement of milk for Class I purposes since the value of milk for manufacturing purposes, either as Class II under the order or for similar uses at nonpool plants, is based on nationally competitive markets for the manufactured products. Finally, the rate of payment would be applied only to Class I sales in the Muskegon marketing area, thereby equalizing the nonpool handler's payments for milk sold in the marketing area without affecting his payments on milk procured for sale in his primary marketing sales territory.

(5) Classification of milk. Milk should be classified in two classes reflecting the principal differences in the value and in the quality of milk required for different uses. Class I should include all skim and butterfat disposed of for consumption as milk, skim milk or cream for fluid consumption, flavored milk, plant loss of producer milk in excess of 2 percent, and skim milk and butterfat not accounted for in Class II utilization. Class II should include skim milk and butterfat used to produce ice cream or ice cream mix, dried whole milk, nonfat dry milk solids, whole or skimmed evaporated or condensed milk, sweetened or unsweetened, in bulk or in hermatically sealed cans, butter, or cheese (including cottage cheese) or in plant loss of producer milk not in excess of 2 per cent and all plant loss of other source milk, and all skim milk dumped or disposed of as livestock feed.

Representatives of health departments in the two major cities of the marketing area testified that milk sold for fluid consumption and that used to produce skim milk, flavored milk, or cream sold for fluid consumption must be produced and handled in compliance with the same sanitation standards. These standards are substantially uniform in both of the cities.

Handlers proposed that a separate class be established for fluid cream for the purpose of pricing it at a lower level than fluid milk and other Class I products. This follows the past custom in the market of pricing whole milk used to make cream at a lower price. The problem is different, however, where the skim milk and butterfat used in each product in each class are accounted for separately. Under this system the butterfat differential is the major factor in determining the cost of cream. The handler butterfat differential provided by the order for Class I milk is somewhat lower than that proposed by the producers at the current prices of butter. As a result, even though a separate class is not established for cream, its cost to handlers will be no higher than the prices they proposed.

The producers' proposal that milk which is dumped or disposed of for livestock feed be considered as Class II should be modified to apply only to skim milk so utilized. Butterfat in the form of cream is much more valuable in relation to its bulk than skim milk and there should be no necessity for emergency disposition of this component.

With the exception of the cream classification and the classification of milk dumped or fed to livestock there was no

opposition to the proposed classification provisions.

Since some handlers combine operations which utilize other source milk in the same plants as those which handle producer milk for the fluid market, it is necessary to provide a method for allocating such other source milk to the classes of utilization. Since producer milk is the milk which is regularly available for fluid consumption in the marketing area, the method of allocation provides that producer milk shall be allocated to Class I to the extent that such use is available.

Producers proposed that actual plant loss, but not to exceed 2 percent of producer milk received, be allowed in the lowest price class, any in excess of this amount to be in Class I. With plant operation of average efficiency, losses normally should not exceed 2 percent. Unlimited allocation of plant loss to Class II would place a premium on unaccounted-for milk and encourage incomplete records of Class I utilization. Any plant losses of producer milk in excess of 2 percent should, therefore, be included in Class I. The standard provisions for prorating loss between producer and other source milk, and allowing for loss on diverted producer milk at the plant where actually received, should also be included in the order.

Provision is made for classification of milk transferred between pool plants and between pool plants and non-pool plants. In the case of transfers between pool plants, transfer is permitted in any agreed class in which the transferee plant has utilization in an amount equal to or greater than the amount so transferred, after allocating any other source milk, since under a market-wide pool the classification of milk transferred between pool plants may represent any agreed producer milk use without affecting the payment to producers. Both handlers are required to report the transferred milk in the agreed classification; otherwise milk and cream transfers are classified as Class I.

In the case of transfers from a pool plant to a non-pool plant, a requirement that producer milk be allocated to the higher value uses in the transferee plant might make it difficult for pool plant operators to dispose of surplus milk. It is concluded that transfers from a pool plant to a non-pool plant in the form of milk, skim milk or cream should be in Class I, but that such transfers may be classified as Class II if so reported by the pool plant operator and if the transferee or another plant to which the product may be moved by the transferee has an equivalent use in Class II and keeps books and records which make it possible for the market administrator to verify such use.

(6) Class prices. Since the Muskegon fluid milk market supply is obtained from a region in which large quantities of milk are delivered to plants which manufacture various milk products, it is necessary that the price for the fluid market be closely related to the level of prices being paid at competing manufacturing plants. There are some differences from time to time between the prices paid at plants

manufacturing different products. Therefore, the Class I price should be related to that particular manufacturing milk price which represents the best outlet for manufacturing milk at any particular time. The method of accomplishing this has been to relate the Class I price to a series of basic formula prices which represent different kinds of manufacturing milk prices. A differential should be added to the highest of the prices determined by 4 separate alternate price formulas to determine the Class I price for each month.

(a) Basic formula prices. The basic formula price to be used in determining the Class I price should be the higher of the prices paid at 18 Midwestern condenseries, a formula based on market prices of butter and non-fat dry milk solids which measures the value of milk to be used for the manufacture of these products, a formula based principally on cheese prices which will measure the value of milk used in cheesemaking, and prices paid by three dairy manufacturing plants located in Michigan. The first three of these basic formula prices measure the value of milk used in each of the 3 major manufactured dairy products, all of which are marketed nationally. The prices paid at the Michigan plants will reflect local manufacturing prices whenever these are in excess of the national averages.

Use of the highest formula prices as the basic formula price would base the Class I price on the most favorable manufacturing use for milk in each month. In an area where all important dary products are manufactured, fluid milk markets must compete for milk with plants making the highest valued products. The Class I price should therefore be based on the formula representing the highest value of milk for manufacturing.

These basic prices are the ones proposed by the proponents with the exception of the cheese formula. Testimony at the hearing indicated that the proposed butter-cheese formula was originally designed to utilize the market prices of butter and cheese as a measure of the value of milk purchased by condenseries. It was further brought out that the formula did not reflect current proportionate marketings of cheese and butter. The formula included in the order measures only the value of milk for cheese making. Over the past four year period the prices resulting from this formula correlate extremely closely with prices paid for milk by cheese factories in Wisconsin. The formula utilizes yields of 8.53 pounds of cheese and 0.902 pound of butter per 100 pounds of milk and a 34.3-cent "make allowance."

The cheese prices used in the formula are those reported by the Dairy and Poultry Market News Service of the USDA in cooperation with the Wisconsin State Department of Markets. They have the advantage over prices derived from activities on the Wisconsin Cheese Exchange of representing a much larger and more uniform volume of transactions, of being based on actual transfers of cheese from factories to buyers, and of being reported daily.

(b) Class I price. The Class I price should be determined by adding \$1.17 to the basic formula price.

Producers proposed that a Class I price differential of \$1.20 be added to the basic formula price each month. Although records of milk prices, production, and sales for the entire marketing area are not available, satisfactory records are available for milk supplied to plants in Muskegon and vicinity and these account for the great bulk of sales in the entire marketing area. Over the 3-year period, 1949 through 1951, the Class I prices which would have prevailed under the order would have averaged \$4.35 per hundredweight as compared with an actual average price of \$4.37 per hundred pounds which applied to the milk sold for fluid uses during the same period. In the fall months, October, November, and December, of 1948, 87 percent of the milk supplied by producers was utilized for fluid purposes, indicating sufficient milk for the market but no significant oversupply. However, during the 12-month period October 1948 through September 1949, fluid milk prices in the market averaged 42 cents above those which would have prevailed under the order. Milk supplies increased markedly and in the fall of 1949 only 77 percent of producer receipts were utilized for fluid purposes. This trend was reversed in 1950. During the 12 months preceding October of that year, market prices for fluid milk averaged 4 cents below the Class I prices which would have prevailed under the order. Producer receipts increased somewhat during this period but there was a greater increase in sales, and 89 percent of producer milk was used for fluid milk purposes during the fall months. A somewhat similar trend continued in 1951. During the period October 1950 through September 1951 prices in the market averaged 5 cents less than they would have under the order and 91 percent of producer milk was utilized for fluid purposes during October-December 1951.

The average of the prices which would have resulted had the order herein recommended been in effect during the operiod 1948 through 1951 would have been very close to the average of the prices which actually were paid during this period. However, the movement of these two price series was significantly different and it appears that the order would have provided much more timely adjustments to actual conditions. In early 1949 the order would have provided a much more rapid downward readjustment of fluid milk prices and this readjustment would have tended to avoid the oversupply of milk in late 1949. On the other hand the more rapid upward adjustment which would have occurred in early 1951 would have encouraged additional supplies during the remainder of that year and might have alleviated the moderate shortages which developed in August and November. A Class I price differential of \$1.17 is also indicated as the appropriate relationship between prices in Muskegon and in Detroit at points where the supply areas for these two markets overlap.

The producers proposed that the Class I price differential be made subject to a "supply-demand" adjustment. Such adjustments are included in several other Federal order markets, including Detroit. Their general purpose is to increase the Class I price when supplies are short in the market and to reduce prices whenever oversupplies are developing.

In a comparatively small, well-integrated market such as is represented by Muskegon there appears to be a minimum of need for a supply-demand adjustment. Past history in this market indicates that the handlers and the producers' association have experienced no undue difficulty in attracting new producers to meet expanding requirements for milk in the area. It is true that the supply area for Muskegon meets the outer edge of the Detroit procurement However, it does not appear that area. this will result in an undue shift of producers between the two markets as a result of any price differences which may result from the operation of the supplydemand adjustment in Detroit. If experience with the operation of an order in Muskegon demonstrates the need for a supply-demand adjustment, one can appropriately be considered by amendment of the order. Experience under an order will also provide more complete data on class use and on producer receipts for the entire marketing area. particular limitation on any attempt to develop an appropriate supply-demand adjustment without operating experience is that one cannot be sure which plants will qualify and remain qualified as pool plants. The addition or deletion of a single plant in a small market would substantially affect a supply-demand adjustment.

(c) Class II price. The Class II price should reflect the value of milk for general manufacturing uses in the Muskegon milkshed. An appropriate price for this use is the higher of the average of the prices paid by three local dairy manufacturing plants and a price determined by a formula based on the market prices of butter and skim powder. The average of the prices paid by three Michigan dairy manufacturing plants, as recommended for use as an alternate basic formula price, will normally reflect the value of milk in the Muskegon area which is not used for fluid consumption as milk or cream. The three plants selected are so located that their production areas include most of the Muskegon milkshed. They manufacture evaporated milk, dry whole milk and skim milk, cottage cheese and sweet cream. They are not operated or controlled by persons who will be handlers under the order. Two of these plants are included in the 18 midwest plants used in determining the basic formula price in most Federal milk marketing orders and recommended for such use herein.

It is possible, however, that due to the limited number of plants which it is practical to use, and the limited area represented, that prices paid by these plants may be lower at times than the market prices of manufactured dairy products would justify. As a safeguard against temporary depressed prices in the local area, an alternate Class II

price based on the market prices of butter and nonfat dry milk solids should be provided. A formula used in many milk markets under Federal regulation for pricing milk for manufacturing uses was proposed. This formula determines butterfat values at the average price of 92-score butter at Chicago plus 20 percent, and skim milk values at the average price of spray and roller process nonfat dry milk solids at Chicago area plants, converted to skim milk equivalent by use of a yield factor of 8.2 pounds of powder per hundredweight of whole milk. From the sum of the butterfat and skim values a manufacturing and marketing margin of 62.6 cents is deducted. Use of this formula price as an alternate Class II price would insure a price related to values of manufactured dairy products during any periods when the price paid by the particular local plants selected might be abnormally low for any reason.

(d) Method of accounting for milk. The classification and allocation of producer milk should be on a skim milk and butterfat basis. Because of the wide variation in the butterfat test of the various products, it is probable that the skim milk from producer milk will frequently be utilized in a different class than the butterfat from the same milk. Classification of skim milk and butterfat separately is necessary to accomplish complete classification according to use. It is also necessary to allocate producer skim milk and butterfat separately in order to give both skim milk and butterfat in producer milk preference over other source milk in the higher value uses. A continuation of the whole milk system of pricing is desirable. Class prices should be expressed as hundredweight prices, and the price for each class should be adjusted to the actual butterfat test of the class by use of the butterfat differentials set forth below.

(e) Handler butterfat differentials. The butterfat differentials to be paid by handlers for each one-tenth of one percent that the butterfat content of producer milk used in Class I or Class II is above or below 3.5 percent should be 7 cents when the market price of Grade A (92-score) butter at Chicago ranges from 60 to 64.99 cents, with a one-half cent variation in the differential for each 5-cent change in butter prices.

Producers proposed that the Class I differential be 2 cents per hundredweight higher than the above schedule. The proposed Class II differential, and that proposed for payments to producers, were the same as above.

This schedule has been widely used in the payment of producers at milk manufacturing plants in Michigan and has also been used in paying producers supplying milk for fluid use in the Muskegon area. It should be applied to Class I prices in preference to a higher schedule of differentials in order to more adequately assess the growing consumer preference for solids-not-fat as indicated by increasing sales of low-fat milk and of skim milk drinks in the Muskegon area and to keep the value of butterfat used in fluid cream at levels no higher than those which have heretofore prevailed in the market. The same schedule is directly applicable to Class II milk since it will facilitate the disposition of and settlement for seasonal excess milk diverted to manufacturing plants for processing.

(7) Payments to producers—(a) Type of pool. Market-wide pooling of all proceeds of producer milk was proposed by the producer representatives. Marketing conditions require the payment of a uniform price to all producers representing the value of all market utilization to compensate all producers fairly for their contribution to the market supply. Some distributors buy as closely as possible to their needs and carry little or no surplus in the high production months. A cooperative handles the spring surplus production of its members and supplies several distributors with milk as needed. Producers supplying these various handler plants contribute equally to making available a yeararound supply of milk but would receive widely varying returns under an individual handler pool method of payment.

Handlers are required to make payments for all producer milk received at the uniform base price for base milk and the excess price for excess milk, as explained below, either to producers directly or to a cooperative association for milk delivered by member producers. In the case of producers for whom a cooperative acts as marketing agent, payment may be made to the producer or to the cooperative, as agreed between them.

(b) Base-excess plan. A "base plan" for returning the proceeds of milk sales to producers in a way which will encourage more uniform seasonal production is provided. Milk is to be paid for on the basis of deliveries during the August-December period.

A base plan has been in use in the Muskegon market for several years, and a proposal was made to incorporate a base plan in the order in substantially the form now in use by the proponents. The effect of the base plan in encouraging more even production is shown by records of daily average deliveries per farm. In the Muskegon area deliveries in the highest month of 1943, the earliest year for which data were submitted, were 172 percent of the lowest month and in 1949 deliveries in the month of highest deliveries were only 135 percent of deliveries in the lowest month.

Fundamentally, the plan provides that each producer will receive the manufacturing milk price for milk delivered each month in excess of a daily average amount, the producer's "base" which base is the daily average of shipments of the producer for the period of August through December of the previous year, the "base period." For milk deliveries not in excess of base, a "base price" is paid which is computed by dividing total market base milk deliveries into the remaining returns for all producer milk marketed during the month after deducting the value of the milk in excess of base. Each producer's base for the 12 months starting each February 1 is his average daily deliveries for a minimum of 122 days during the August 1-December 1 period of the preceding year.

The proponent cooperative proposed that a new producer entering the market

or a producer electing to give up his base, be paid for a certain percentage of his milk during each of the first three full months of delivery at the base price and the remainder at the excess price. These percentages would be fixed for each month at a somewhat lower percentage of base and higher percentage of excess than the normal market average of all producers for the month. average daily amount of milk paid for as base milk over the three-month period would determine the producer's daily base until a new base is established. The percentages proposed reflect the seasonal production pattern of new producers as determined from market experience. The low spring percentages are necessary if producers are to be given the option of establishing a new base in order to prevent producers having a wide seasonal variation from receiving higher payments than justified by establishing two bases each year. Also, producers are not encouraged to enter the market in the months when there is an over-supply of milk. The recommended percentages of milk deliveries to be paid for at the base price, 75 percent for January and February, 70 percent for March, 60 percent for April and July and 40 percent for May and June, are appropriate for making payments in these months to new producers and to producers who elect to establish new bases. Payments during the base period, however, should be at the market blend price. Base should be established on deliveries during the base period at 80 percent of deliveries. This would give old shippers the option of establishing a new base on 100 percent of daily average deliveries in the 5 months of August through December or establishing a short-time base at 80 percent of deliveries in any 3 months, such shorttime base to apply for the entire year following the next February 1.

In the Muskegon market the months of lowest production in relation to fluid milk sales are normally October, November, December and January. The base period proposed includes August and September which are usually months of more plentiful supply than are January and February, and does not include January. These months appear to have been selected to offset the lag in production responses which require the stimulus to fall and winter production to become effective some months in advance of the period of shortest production in relation to market needs. A base period extending through January and February would tend to result in higher production in the spring months of oversupply. It is concluded that the proposed base-forming period should be adopted and that deliveries for only 122 days during the period be required. This would allow a producer starting delivery not later than September 1 to establish a base on 100 percent of deliveries for 4 months, and for limited lapses in delivery during the period by those who ship for 5 months.

A proposal that bases be reduced by the difference between the average base period deliveries and 90 percent of the previous base was the result of long experience in the market which has shown

that such an adjustment eliminates most cases of inequity and dissatisfaction because of reductions in base due to accident, disease, weather, feed quality and other conditions more or less beyond the control of the producer.

A period of one month is allowed following the end of the base period to compute new bases. Every producer (except those who have been on the market less than 3 months) receives a new base on February 1 computed as the average of daily deliveries during the base forming months, or 80 percent of average daily deliveries in 3 months.

It is provided that all milk be considered as base milk and be paid for at a uniform price until bases have been established by deliveries during the first base period after the order becomes effective. This, of course, would not prevent a cooperative from repooling the returns for milk of its members and making payments on such base and excess plan as it may elect.

Rules have been provided for the handling of bases under certain circumstances. It is provided that any producer who fails to deliver milk to a handler for 45 consecutive days shall lose his base.

(c) Producer butterfat differential. The butterfat differential to be paid producers for each one-tenth of 1 percent that the butterfat content of the milk they deliver during the month is above or below 3.5 percent should be 7 cents when the butter price ranges from 60 to 64.99 cents, with a one-half cent variation in the differential for each 5-cent change in butter prices.

As explained above in connection with the handler butterfat differential this is the same system of butterfat differentials widely used in the payment of producers delivering milk to manufacturing and fluid milk plants in Michigan. It appears that this butterfat differential will result in a supply of producer milk of satisfactory butterfat test for the needs in the market.

(8) Administrative provisions—(a) Administrative assessments. The act provides that the costs of administering a milk marketing order shall be financed by assessments on handlers subject to the order. An assessment of 4 cents per hundredweight of milk received from producers was proposed for this purpose.

As the order was originally proposed, there would have been only negligible quantities of other source milk sold for fluid purposes in the marketing area and the assessment could have been confined to producer milk. However, milk sold by handlers who have significant sales in the area but less than the 20 percent required for pool plant status will be considered as other source milk. The market administrator will necessarily audit their records and check test products sold by such handlers to the same extent as for the pool plants which receive milk from producers as defined under the order. In fact, he will probably incur more expanse in proportion to the volume of milk sold in the area.

It is concluded that the administrative assessment of 4 cents per hundredweight of milk should apply to other source milk

sold as Class I in the marketing area as well as to milk received from producers.

(b) Market services. To verify payments to producers at required rates, it is necessary to determine that butterfat tests and weights are accurate. To promote orderly marketing and encourage the production of an adequate supply of milk of satisfactory quality, it is necessary to furnish information regarding the market to individual producers. The cost of these market services should be paid by the producers who receive the benefits. Cooperative associations may be performing these services for members. It is provided, therefore, that in making payments to producers who are members of cooperatives determined by the Secretary to be performing such services, handlers shall be required to deduct from payments to producers and pay to the cooperative such amounts as are authorized by the members of the cooperative. In the case of producers who are not receiving such services from their cooperative, the service should be performed by the market administrator with funds provided by a deduction from payments to such producers. It is provided, therefore, that a deduction of 7 cents per hundredweight be made from payments to producers not receiving market services from a cooperative of which they are members and paid to the market administrator to be used for performing such services, and that this rate of 7 cents may be lowered by the Secretary if experience proves a lesser amount to be sufficient.

(c) Other administrative provisions. The other provisions cover administrative procedures necessary to carry out the pricing and payment requirements of the order, and for the liquidation of accounts in the event of suspension or termination of the order. Appointment of a market administrator is provided for and his powers and duties are prescribed. The computations to be made by the market administrator in determining class prices, the uniform price and the base price are set forth. A producer-equalization account is provided and the method of determining payments due to and from this account outlined so that each handler's payments to or receipts from this account, together with his payments to producers or cooperatives for milk will equal the value of his producer milk at the class prices. Handlers are required to permit verification by audit of all utilization of milk and milk products. Handlers are required to preserve all necessary records to show receipts, utilization and payments for a period of 3 years. This is considered long enough to allow for all necessary verification and at the same time not burden handlers with an unreasonable volume of old records. Records involved in any litigation, however, must be retained until released by the market administrator.

The termination of any obligation of a handler regarding any payment required by the order or of the market administrator to pay any handler is provided at the end of the 2 years. Exceptions in the case of handler obligations are made in cases of noti-

fication of the obligation by the market administrator, failure or refusal of a handler to submit records, or transactions involving fraud or willful concealment of facts. A definite date for terminating obligations prevents the filing of claims which might extend back many years and involve substantial amounts. The resulting uncertainty could cause serious inequities and endanger the stability of the market. Handlers cannot always be forewarned as to contingent liabilities and it is extremely difficult and burdensome for them to make adequate provision therefor by setting up reserves or by taking other precautionary measures. It is concluded that in general a period of 2 years is a reasonable time in which the market administrator should complete his audits and render billings for money due under the order.

Payments to producers have customarily, been made on the 15th of the month following that in which the milk was received. It is considered desirable to continue this practice, as a shorter time is impractical considering the necessary reports and computations to be made. On the other hand, producers should not be required to wait longer than 15 days which payment can be made within that time. Dates specified for announcement of class prices, submission of handler reports, announcement of uniform prices and equalization fund obligations are so set as to permit payments to producers by the 15th of the following month.

(9) Other provisions. Producers are deprived of the use of money rightfully belonging to them if a handler refuses to pay an obligation when due. It is provided therefore that an added charge of one-half percent per month be added to overdue accounts which will compensate producers for being deprived of money due them and also remove the advantage which would accrue to a handler if he could delay payments and have the use of money due to producers at no cost.

To avoid the application of two or more Federal orders to the handling of the same milk, it is provided that if the Secretary determines that a larger proportion of Class I milk is marketed under the pricing and payment provisions of any other Federal milk marketing order, it shall be exempt from all except the reporting and auditing provisions of this order.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act:

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure, a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Marketing agreement and order The following order is tentatively approved as the appropriate means by which the foregoing conclusions may be carried out. The marketing agreement is not included in this tentative decision because the regulatory provisions thereof would be identical with those contained in the order.

Order 1 Regulating the Handling of Milk in the Muskegon, Michigan, Marketing Area

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¹This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

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AUTHORITY: §§ 985.1 to 985.131 issued under sec. 5, 49 Stat. 753, as amended; 7 U.S.C. and Sup. 608c.

§ 985.0 Findings and determinations.-(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Muskegon, Michigan, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held:

(4) All milk and milk products handled by handlers, as defined in this order, are in the current of interstate commerce or directly burden, obstruct, or

products; and

(5) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of milk from producers and other source milk which is classified as Class I milk.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Muskegon, Michigan, marketing area shall be in conformity to and in compliance with the following terms and conditions as set forth below.

DEFINITIONS

§ 985.1 Act. "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C., 601 et seq.).

§ 985.2 Secretary. "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States, authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 985.3 U. S. D. A. "U. S. D. A." means the United States Department of Agriculture.

§ 985.4 Person. "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 985.5 Muskegon, Michigan, market-"Muskegon, Michigan, marma area. keting area" referred to in this subpart as the "marketing area" means all territory, including incorporated municipalities, within Muskegon County and within the outer boundaries of the following townships of Ottawa County, in the State of Michigan:

Chester. Polliton. Crockery Spring Lake. Grand Haven.

§ 985.6 Pool plant. "Pool plant" means a plant (except one which is exempted pursuant to § 935.101) from which either (1) 20 percent or more of the total milk received at such plant during the month is disposed of in the marketing area as Class I other than to another pool plant, or (2) 20 percent or more of the total milk received from dairy farmers at such plant during the month is moved to a pool plant(s) as described in (1) above.

§ 985.7 Handler "Handler" means: (a) A person who operates a pool plant or a plant in which milk is pasteurized or packaged and from which Class I milk is disposed of in the marketing area.

(b) A cooperative association with respect to milk customarily received by a handler as described under paragraph (a) of this section, which is diverted to a non-handler for the account of the association.

§ 985.8 Producer "Producer" means any dairy farmer whose milk is delivered

affect interstate commerce in milk or its from his farm to a pool plant, or to any other plant by diversion from a pool plant for the account of a handler.

> § 935.9 Producer-handler "Producer-handler" means a person who is a handler and who produces milk, but receives no milk from other producers or from a cooperative association.

> § 935.10 Other source milk. "Other source milk" means all skim milk and butterfat in any form received at a handler's plant other than from producers or from a pool plant.

> § 935.11 Cooperative association. "Cooperative association" means any co-operative marketing association of producers, duly organized as such under the laws of any State, which the Secretary determines:

> (a) Is qualified under the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act".

> (b) Has full authority in the sale of milk of its members; and

(c) Is engaged in making collective sales or marketing milk or its products for its members.

§ 985.12 Base. "Base" means a quantity of milk, expressed in pounds per day, determined for each producer as provided in § 985.70.

§ 985.13 Base milk. "Base milk" means milk delivered by a producer each month which is not in excess of his base multiplied by the number of days on which milk is delivered during the month, and all milk delivered by a producer prior to February 1, 1954.

§ 985.14 Excess milk. "Excess milk" means milk delivered by a producer each month in excess of his base milk.

LIARKET ADLIBUSTRATOR

§ 985.20 Designation. The agency for the administration of this subpart shall be a market administrator, selected by the Secretary who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 985.21 Powers. The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions

(b) To receive, investigate, and report to the Secretary complaints of violation;

(c) To make rules and regulations to effectuate its terms and provisions;

(d) To recommend amendments to the Secretary.

§ 985.22 Duties. The market administrator shall perform all duties necesto administer the terms and provisions of this subpart, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to

PROPOSED RULE MAKING

enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator.

(d) Pay, out of the funds provided by § 985.85:

(1) The cost of his bond and of the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 985.86, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided in this subpart, and, upon request by the Secretary, surrender the same to such other person as the Secretary may

designate:

- (f) Publicly announce, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to § 985.30 and § 985.31, or (2) payments pursuant to § 985.80 and § 985.83;
- (g) Calculate a base for each producer in accordance with § 985.70 and advise the producer and the handler receiving the milk of such base;-
- (h) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary.
- (i) Audit records of all handlers to verify the reports and payments required pursuant to the provisions of this sub-

(j) Publicly announce the prices determined for each month as follows:

(1) On or before the 5th working day of each month, the minimum class prices for the preceding month computed pursuant to §§ 985.51 and 985.52, and the handler butterfat differential computed pursuant to § 985.53, and

(2) On or before the 11th day of each month the uniform price, the price for base milk and the price for excess milk for the preceding month, computed pursuant to §§ 985.62, 985.63, and 985.64, and the producer butterfat differential computed pursuant to § 985.81.

REPORTS, RECORDS AND FACILITIES

§ 985.30 Monthly reports of receipts and utilization. On or before the 5th working day of each month, each handler who operates a pool plant shall report to the market administrator, for the preceding month, in the detail and on forms prescribed by the market administrator, the receipts at his pool plant from each of the following sources and the quantities of butterfat and skim milk contained in such receipts: the utilization of such receipts; and such other information with respect to such receipts and utilization as the market administrator may prescribe;

(a) All producer milk received, includ-

ing diverted producer milk;
(b) All skim milk and butterfat in any form received from each other handler; and

(c) All other source milk received except any non-fluid milk product which is disposed of in the same form as received.

§ 985.31 Other reports. (a) Each producer-handler and each handler who does not operate a pool plant shall make reports at such time and in such manner as the market administrator may re-

- (b) On or before the 20th day of each month each handler who received milk from producers shall report his producer payroll for the preceding month which shall show.
- (1) The pounds of base milk and pounds of excess milk received from each producer, and the percentage of butterfat contained therein;
- (2) The amount and date of payment to each producer, or to a cooperative association; and
- (3) The nature and amount of each deduction or charge involved in the payments referred to in subparagraph (2) of this paragraph.

§ 985.32 Records and facilities. Each handler shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of all of his operations and such facilities as are necessary to verify reports or to ascertain the correct information with respect to (a) the receipts and utilization or disposition of all skim milk and butterfat received, including all milk products received and disposed of in the same form; (b) the weights and tests for butterfat, skim milk and other contents of all milk and milk products handled; and (c) payments to producers and cooperative associations.

§ 985.33 Retention of records. All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: Provided, That, if within such three-year period, the market administrator notifies a handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice. the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection there-

CLASSIFICATION

§ 985.40 Skim milk and butterfat to be classified. All skim milk and butterfat received at a pool plant (a) in milk from producers or from a cooperative association, (b) in any form from other handlers and (c) in other source milk required to be reported pursuant to § 985.30, shall be classified (separately as skim milk and butterfat), in the classes set forth in § 985.41.

§ 985.41 Classes of utilization. Subject to the conditions set forth in §§ 985.42 and 985.43 the classes of utilization shall be as follows:

(a) Class I utilization shall be all skim milk and butterfat (1) disposed of for consumption in fluid form as milk, skim milk, buttermilk, flavored milk, sweet or sour cream, and (2) not accounted for as Class II utilization.

(b) Class II utilization shall be all skim milk and butterfat, (1) used to produce ice cream, ice cream mix, or cottage cheese, or disposed of as whole or skimmed condensed or evaporated milk (sweetened or unsweetened) in bulk or in hermetically sealed cans, cheese, dried whole milk, non-fat dry milk solids, or butter. (2) in actual shrinkage of skim milk and butterfat in milk received from producers, but not to exceed 2 percent of such receipts; and (3) in actual shrinkage in other source milk; and (4) skim milk authorized by the market administrator to be dumped or accounted for as disposed of as livestock feed.

§ 985.42 Shrinkage. (a) If producer milk is utilized in conjunction with other source milk, the shrinkage shall be allocated pro rata between the receipts of skim milk and butterfat in producer milk and in other source milk.

(b) Shrinkage on producer milk shall be computed on that quantity of milk received directly from producers. Shrinkage shall be computed on diverted producer milk at the plant receiving such

§ 985.43 Transfers. (a) Skim milk and butterfat disposed of from a pool plant to another pool plant in the form of milk, skim milk or cream shall be Class I utilization unless Class II utilization is indicated by the operators of both plants in their reports submitted pursuant to § 985.30: Provided, That in no event shall the amount so classified as Class II be greater than the amount of producer milk used in such class in the pool plant of the transferee handler after allocating other source milk in such plant in series beginning with the lowest priced utilization.

(b) Skim milk and butterfat moved in the form of milk, skim milk or cream from a pool plant to a handler described in § 985.101 or to a plant not a pool plant shall be Class I utilization unless all of the following conditions are met:

(1) Class II utilization is indicated by the operator of the pool plant in his report submitted pursuant to § 985.30.

- (2) The operator of such nonpool plant in the month of such movement had actually used an equivalent amount of skim milk and butterfat in Class II, or moved such amount to another nonpool plant which meets the requirements of subparagraph (3) of this paragraph and utilized in the month an equivalent amount of skim milk and butterfat in Class II.
- (3) The operator of the nonpool plant maintains books and records which are made available for examination upon request by the market administrator and which are adequate for the verification of such class II utilization.

§ 985.44 Responsibility of handlers. All skim milk and butterfat shall be classified as Class I utilization unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 985.45 Computation of skim milk and butterfat in each class. For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I and Class II utilization for each handler.

§ 985.46 Allocation of butterfat classified. The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to milk received from producers:

(a) Subtract from the total pounds of butterfat in Class II utilization, the pounds of butterfat shrinkage allowed pursuant to § 985.41 (b) (2)

(b) Subtract from the total pounds of butterfat remaining in each class, in series beginning with the lowest-priced utilization, the pounds of butterfat in other source milk;

(c) Subtract from the pounds of butterfat remaining in each class, the pounds of butterfat received from other handlers in such classes pursuant to § 985.43 (a) and

(d) Add to the remaining pounds of butterfat in Class II utilization the pounds subtracted pursuant to paragraph (c) of this certifier.

graph (a) of this section;

(e) If the remaining pounds of butterfat in both classes exceed the pounds of butterfat in milk received from producers, subtract such excess from the remaining pounds of butterfat in each class in series, beginning with the lowest-priced utilization,

§ 985.47 Allocation of skim milk classified. Allocate the pounds of skim milk in each class to milk received from producers in a manner similar to that prescribed for butterfat in § 985.46.

MINIMUM PRICES

§ 985.50 Basic formula price. The basic formula price to be used in determining the price per hundredweight of Class I utilization shall be the highest of the prices computed pursuant to paragraphs (a) (b) (c) and (d) of this section.

(a) The average of the basic or field prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 per cent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the U. S. D. A.

Present Operator and Location

Borden Co., Mount Pleasant, Mich. Carnation Co., Sparta, Mich. Pet Milk Co., Hudson, Mich. Pet Milk Co., Coopersville, Mich. Borden Co., Greenville, Wis. Borden Co., Black Creek, Wis. Borden Co., Orfordville, Wis. Borden Co.; New London, Wis. Carnation Co., Chilton, Wis.

Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values computed pursuant to subparagraphs (1) and (2) of this paragraph;

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the U. S. D. A. during the month; subtract 3 cents, add 20 percent thereof and multiply by 3.5.

(2) From the simple average as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk sollds, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the U. S. D. A., deduct 5.5 cents and then multiply by 8.2.

(c) The price per hundredweight resulting from the following formula:

(1) Multiply by 8.53 the average of the daily prices per pound of cheese at Wisconsin Primary Markets ("Cheddars" f. o. b. Wisconsin assembling points, cars or truckloads) as reported by the U. S. D. A. during the delivery period;

(2) Add 0.902 times the price per pound of butter as described in paragraph (b) '(1) of § 985.50; and

(3) Subtract 34.3 cents.

(d) The average of the prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants for which prices have been reported to the market administrator:

Carnation Milk Co., Sparta, Mich. Saranac Milk Products Co., Saranac, Mich. Pet Milk Co., Wayland, Mich.

§ 985.51 Class I mill: price. (a) The minimum price per hundredweight to be paid by each handler, f. o. b. his pool plant, for milk of 3.5 percent butterfat content received from producers or from cooperative associations during the month, which is classified as Class I utilization shall be the basic formula price plus \$1.17.

§ 985.52 Class II milk price. The minimum price per hundredweight to be paid by each handler, f. o. b. his pool plant, for milk of 3.5 percent butterfat content received from producers or from a cooperative association, during the month, which is classified as Class II utilization, shall be the higher of the prices as computed by the market adminstrator pursuant to paragraphs (a) and (b) of this section:

(a) The price per hundredweight computed as follows:

(1) Multiply the average price per pound of butter as described in paragraph (b) (1) of \S 935.50 by 1.2 and then by 3.5.

(2) Multiply by 8.2 the simple average of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the United States Department of Agriculture.

(3) From the sum of the amounts determined under subparagraphs (1) and (2) of this paragraph deduct 62.6 cents.

(b) The price per hundredweight pursuant to § 985.50 (d)

§ 985.53 Handler butterfat differentials. If the average butterfat content of the milk of any handler allocated to any class is more or less than 3.5 percent, there shall be added to the prices of milk for each class as computed pursuant to §§ 935.51 and 985.52 for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 3.5 percent, an amount equal to the producer butterfat differential, determined pursuant to § 985.81.

DETERMINATION OF UNIFORM PRICE

§ 985.60 Handler operating a plant which is not a pool plant. Each handler who operates a plant which is not a pool plant during the month shall pay to the market administrator for the producer settlement fund, on or before the 25th day after the end of such month any amount resulting from the following computation:

(a) Compute an amount equal to the net pool obligation which would be computed pursuant to § 985.61 for milk received from dairy farmers at such plant for such month if such handler operated

a pool plant;

(b) Deduct the gross payments, inclusive of any premiums but exclusive of deductions, made by the handler to dairy farmers for milk received at such plant during such month;

(c) Divide the remainder, if any, by the number of hundredweights of milk received from dairy farmers and utilized for Class I purposes: Provided, That in no event shall the resulting amount per hundredweight exceed the difference between the Class I and Class II prices; and

(d) Multiply the amount per hundredweight determined pursuant to paragraph (c) of this section by the number of hundredweights of Class I milk disposed of from such plant in the marketing area.

§ 985.61 Computation of value of producer milk for each handler The value of producer milk received during the month by each handler who operates a pool plant shall be a sum of money computed by the market administrator by multiplying by the applicable class price, adjusted pursuant to § 985.53, the total combined hundredweight of skim milk and butterfat received from producers allocated to each class pursuant to § 985.46 and § 985.47, adding together the resulting amounts, and if such han-

dler has a utilization greater than has been accounted for as received from all sources, add an amount computed by multiplying any such excess utilization classified pursuant to § 985.46 (e) and § 985.47 by the applicable class prices.

§ 985.62 Computation of the 3.5 percent value of all producer milk. For each month, the market administrator shall compute the 3.5 percent value of producer milk by.

(a) Combining into one total the individual values of milk of all handlers computed pursuant to § 985.61, adjusted by any charges or credits pursuant to

§ 985.90 (a) and (b)

(b) Adding, if the weighted average butterfat test of all producer milk represented in paragraph (a) of this section is less than 3.5 percent, or subtracting if the weighted average butterfat test of such milk is more than 3.5 percent, an amount computed by multiplying the total pounds of butterfat represented by the difference of such average butterfat test from 3.5 percent by the butterfat differential provided in § 985.81 multiplied by 10.

(c) Adding not less than one-half of the unobligated balance in the producer-

equalization fund.

§ 985.63 Uniform price. For each month the uniform price shall be computed by (a) Dividing the amount computed pursuant to § 985.62 by the hundredweight of milk received from producers represented by the values included in § 985.62 (a) and (b) subtracting not less than 4 cents or more than 5 cents.

§ 985.64 Excess milk price. For each month the excess milk price shall be the price of Class II utilization determined pursuant to § 985.52, rounded off to the nearest full cent.

§ 985.65 Computation of the base milk price. (a) Multiply the total pounds of excess milk and milk to be paid for at the excess milk price pursuant to § 985.70 (b) by the excess milk price for the month.

(b) Multiply the total amount of milk to be paid for at the uniform price by the

uniform price for the month.

(c) Subtract the total values arrived at in paragraphs (a) and (b) of this section from the total 3.5 percent value of all producer milk arrived at in § 985.62;

(d) Divide the resultant value by the total hundredweight of base milk and milk to be paid for at the base price

pursuant to § 985.70 (b) and

- (e) Subtract not less than 4 cents nor more than 5 cents. The resultant hundredweight price shall be the price of base milk of 3.5 percent butterfat content received at pool plants described in § 985.6.
- § 985.66 Notification. On or before the 12th day after the end of each month the market administrator shall notify each handler of:

(a) The amounts and values of his milk in each class and the total of such

amounts and values;

(b) The base of any producer delivering milk to the handler which was not used in making payments for the previous month:

(c) The amount due such handler from the producer-equalization fund or the amount to be paid by such handler to the producer-equalization fund, as the case may be; and

(d) The totals of the minimum amounts to be paid by such handler pursuant to §§ 985.80, 985.83, 985.85, 985.86, and 985.90.

BASE RULES

§ 985.70 Determination of base. (a) A producer who delivered milk on at least 122 days during the period August 1 through December 31, inclusive, shall have a base computed by the market administrator to be applicable, subject to paragraph (c) of this section, for the 12 months' period beginning the following February 1, equal to his daily average milk deliveries from the date on which milk was first delivered in the period to the end of such period: Provided, That a producer who had a base previous to August 1, and whose average of daily deliveries for the August 1-December 31 period is less than such base shall have a base computed by subtracting from his previous base any amount by which 90 percent of his previous base exceeds such average of daily deliveries.

(b) A producer who has no base by reason of having delivered less than 3 full months shall be paid, until such time as he has been a producer 3 full months, the uniform price in each of the months of August through December and in other months the price applicable to base milk for the following percentages of his milk deliveries and the price applicable to excess milk for the remainder of his deliveries: 75 percent for January and February, 70 percent for March, 60 percent for April and July, and 40 percent for May and June. At the conclusion of the first 3 full months' delivery a base shall be established in the following manner. Multiply the total deliveries in the months of August through December by 0.8, in January and February by 0.75, in March by 0.7, in April and July by 0.6, and in May and June by 0.4. Add the amounts so computed and divide by the number of days in which milk was delivered during the three months.

(c) A producer with a base, by notifying the market administrator that he relinquishes such base, may establish a new base pursuant to paragraph (b) of this section once during the 12-month period ending December 31, the period for establishing a new base to begin the first day of the month in which such notification is received by the market administrator.

(d) From the effective date of the subpart until bases are established pursuant to this section, all milk delivered by producers shall be considered to be base milk.

§ 985.71 Application of bases. (a) A base shall apply to deliveries of milk by the producer for whose account milk was delivered during the base period and upon death may be transferred to a member or members of the deceased producer's immediate family.

(b) Bases may be transferred under the following conditions upon written notice by the holder of the base to the market administrator on or before the last day of the month that such base is to be transferred:

(1) Upon retirement or entry into military service of a producer, the entire base may be transferred to a member or members of his immediate family.

(2) Bases may be held jointly and if such joint holding is terminated the bases may be transferred as specified in writing to the market administrator by the joint holders to a person or persons who maintain a dairy herd or herds on the same farm.

(c) A producer who does not deliver .milk to a handler for 45 consecutive days shall forfeit his base.

PAYMENT FOR MILK

§ 985.80 Time and method of payment. On or before the 15th day after the end of each month each handler who received milk from producers or from a cooperative association shall pay for milk received during such month to each producer, or to a cooperative association for milk received from producers for the account of such association, the uniform price as provided in § 985.70 (b) or the base price for base milk and for milk to be paid for at the base price pursuant to § 985.70 (b) and the excess price for excess milk and milk to be paid for at the excess price pursuant to § 985.70 (b), adjusted by the butterfat differential pursuant to § 985.81. Provided, That if by such date such handler has not received full payment for such month pursuant to § 985.84 he shall not be deemed to be in violation of this section if he reduces uniformly to all producers and cooperative associations his payments per hundredweight by a total amount not in excess of the reduction in payments due from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this section next following that on which such balance of payment is received from the market administrator.

§ 985.81 Producer butterfat differential. In making payments pursuant to § 985.80, the uniform price, base price and excess price shall be increased or decreased for each one-tenth of one percent of butterfat content in the milk received from each producer or a cooperative association above or below 3.5 percent, as the case may be, by a butterfat differential of 7 cents when the average price of butter as described in § 985.50 (b) (1) is 60 cents, which differential shall be increased one-half cent for each full 5 cents variance in such price of butter above 60 cents and decreased one-half cent for each full 5 cents varnance in such price of butter below 64.99 cents.

§ 985.82 Producer-equalization fund. The market administrator shall establish and maintain a separate fund. known as the "producer-equalization fund" into which he shall deposit all payments received pursuant to § 985.83 and out of which he shall make all payments pursuant to § 985.84.

§ 985.83 Payments to the producerequalization fund. On or before the 13th day after the end of each month, each handler: (a) Whose value of milk is required to be computed pursuant to \$985.61 shall pay to the market adminstrator any amount by which such value for such month is greater than the minimum amount required to be paid by him pursuant to \$985.80; (b) who is required to make payment pursuant to \$985.60 shall pay such amount to the market administrator.

§ 985.84 Payments out of the producer-equalization fund. On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the value of milk for such handler for the month pursuant to § 985.61 is less than the total minimum amount required to be paid by him pursuant to § 985.80, less any unpaid obligations of such handler to the market administrator pursuant to_ § 985.83: Provided, That if the balance in the producer-equalization fund is insufficient to make all payments to all such handlers pursuant to this paragraph. the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 985.85 Expense of administration. As his pro rata share of the expense of administration of this subpart, each handler shall pay to the market administrator on or before the 13th day after the end of each month four cents per hundredweight, or such amount not exceeding four cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of milk from producers and to other source milk which is classified as Class I.

§ 985.86 Marketing services. (a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 985.80 for milk received from each producer at a plant not operated by a cooperative association of which such producer is a member, shall deduct seven cents per . hundredweight, or such amount not exceeding seven cents per hundredweight as the Secretary may prescribe, with respect to all such milk received during the month and, on or before the 13th day after the end of each month, shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 985.80 as may be authorized by such producers, and pay such deductions on or before the 13th

day after the end of the month to the cooperative association rendering such services of which such producers are members.

ADJUSTLIENT OF ACCOUNTS

§ 985.90 Payments. Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in moneys due:

(a) To the market administrator from such handler.

(b) To such handler from the market administrator, or

(c) To any producer or cooperative association from such handler, the market administrator shall notify such handler promptly of any such amount due; and payment thereof shall be made on or before the next date, following the 5th day after such notice, for making payment set forth in the provision under which such error occurred.

§ 985.91 Overdue accounts. Any unpaid obligation of a handler or of the market administrator pursuant to §§ 985.83, 985.85, 985.86, and 985.90 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

APPLICATION OF PROVISIONS

§ 985.100 Milk caused to be delivered by cooperative associations. Milk referred to in this subpart as received from producers by a handler shall include milk of producers caused to be delivered to such handlers by a cooperative association.

Handler exemption. § 985.101 handler who operates a plant located outside the marketing area from which an average of less than 300 points (one point being defined as one-half pint of cream or one quart of any other Class I product) of Class I milk per day is disposed of during the delivery period on a route(s) operating wholly or partly within the marketing area, or a handler whom the Secretary finds is subject, during the delivery period, to another Federal order and whose disposition of Class I milk in the other Federal marketing area exceeds that in the Muskegon marketing area, shall be exempted for such delivery period from all provisions of this subpart except §§ 935.31, 935.32, and 985.33.

§ 985.102 Producer-handler. A producer-handler shall be exempt from all provisions of this subpart except that he shall make reports to the market administrator at such time and in such manner as the market administrator may request.

TERLINATIONS OF OBLIGATIONS

§ 985.110 Termination of obligations.
(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of the

mill: involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation; (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or associations, or, if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books or records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representative.

(c) Notwithstanding the provisors of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section &c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 985.120 Effective time. The provisions of this subpart, or of any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 985.121 When suspended or terminated. The Secretary shall, whenever he finds that this subpart, or any provision of this subpart, obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this subpart or any such provision of this subpart.

§ 985.122 Continuing obligation. If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

§ 985.123 Liquidation. Under the suspension or termination of the provisions of this subpart, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 985.130 Agents. The Secretary may by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 985.131 Separability of provisions. If any provision of this subpart, or the application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this subpart, to other persons or circumstances shall not be affected thereby.

It is hereby ordered, that this tentative decision be published in the Federal REGISTER.

This decision filed at Washington, D. C., this 8th day of May 1953.

[SEAL]

E. T. BENSON. Secretary of Agriculture.

[F. R. Doc. 53-4204; Filed, May 12, 1953: 8:51 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division [29 CFR Part 525]

EMPLOYMENT OF HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

TERMS OF SPECIAL CERTIFICATE

Notice is hereby given that pursuant to authority under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S. C. 1001) the Administrator of the Wage and Hour Division, United States Department of Labor, proposes to amend § 525.6 (d) and (e) of the regulations governing the employment of handicapped clients in sheltered workshops (29 CFR Part 525) to read as follows:

§ 525.6 Terms of special certificate.

(d) A special certificate may provide a minimum wage rate below which a

client may not be paid during a specified period or periods, designated as "training period(s)", to allow for evaluation of the client's capacities and for jobtraining. Such rate may apply during the training period(s) specified to a client who has never previously worked in the workshop, or to a client who is transferred to a job in the workshop at which he has never previously worked, or to a client who has returned to the workshop after such period of separation as would require retraining.

(e) A special certificate may provide a minimum wage rate for the workshop or minimum wage rates for divisions of the workshop below which a client may not be paid following completion of the specified training period(s) unless a lower special individual wage rate has been authorized in such special certificate for a client who is unable to earn the workshop or applicable division minımum wage rate.

Prior to the final adoption of the proposed amendment set forth above consideration will be given to any views. arguments, or data pertaining thereto which are submitted in writing to the Administrator, Wage and Hour Division, United States Department of Labor, Washington 25, D. C., within 15 days from the date of publication of this document in the FEDERAL REGISTER.

Signed at Washington, D. C., this 7th day of May 1953.

> WM. R. McComb. Administrator, Wage and Hour Division.

[F. R. Doc. 53-4178; Filed, May 12, 1953; 8:45 a. m.]

NOTICES

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U.S.C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522) special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below conditions provided in certificates issued under special industry

regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Rainwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended December 31, 1951, 16 F R. 12043, and June 2, 1952; 17 F R. 3818)

Brewster Shirt Manufacturing Corp., Ocala, Fla., effective 5-12-53 to 5-11-54; 10 percent of the factory production workers, or 10 learners, whichever is greater (sport shirts). Brook's Co., Inc., 127 College Street, Bur

lington, Vt., effective 5-4-53 to 5-3-54; 10 learners for normal labor turnover (children's garments).

The Enro Shirt Co., Center Street, Madisonville, Ky., effective 4-29-53 to 4-28-54; 10 percent of the factory production workers (shirts, pajamas).

Freeland Dress Co., Inc., 721 Birkbeck Street, Freeland, Pa., effective 5-1-53 to 4-30-54; 5 learners (children's dresses).

General Garment Manufacturing Co., Inc., Lawrenceville, Va., effective 5-5-53 to 5-4-54; 10 percent of the factory production workers (sport shirts).

Gunnin Manufacturing Co., Corner Main and Church Streets, Dawson, Ga., offoctive 5-15-53 to 5-14-54; 10 learners (sport shirts). Hartsville Manufacturing Co., Hartsville, S. C., effective 4-29-53 to 10-28-53; 50 learners

for expansion purposes (dresses).

The Joanie Jan Co., Walnut Ridge Ark., effective 5-8-53 to 5-7-54; 10 percent of the factory production workers (wash frocks).

The Joanie Jan Co., Walnut Ridge, Ark.,
effective 5-17-53 to 11-16-53; 20 learners for

expansion purposes (wash frocks).

Nittelman, Bernstein & Co., Fifteenth and
Walnut Streets, Wilmington, Del., effective 5-1-53 to 4-30-54; 10 learners (ladles' cotton pajamas, cotton gowns, etc.).

Newton Co., Newton, Miss., effective 5-4-53 to 5-3-54; 10 percent of the factory production workers (ladies' and men's slacks).

R S & R Shirt Co., 301 Taylor Street, Corinth, Miss., effective 5-4-53 to 11-3-53; 25 learners for expansion purposes (shirts).

I. Taitel & Son, Drew, Miss., effective 5-4-53

to 11-3-53; 30 learners for expansion purposes (jackets and work pants).

Vera Sportswear, Inc., 306-310 Catawissa Street, Nesquehoning, Pa., effective 4-29-53 to 4-28-54; 10 percent of the factory pro-

duction workers (ladies' blouses).
Williamson-Dickie Manufacturing Eagle Pass, Tex., effective 5-4-53 to 11-3-53; 25 learners for expansion purposes (work clothing).

Cigar Industry Learner Regulations (29 CFR 522.201 to 522.211, as amended October 27, 1952; 17 F. R. 8633)

L Lewis Cigar Manufacturing Co., Selma, Ala., effective 5-4-53 to 5-3-54; 10 percent of the factory production workers; cigar machine operating, 320 hours at 65 cents per hour; packing (cigars retailing for 6 cents or less), 160 hours at 65 cents per hour; machine stripping, 160 hours at 65 cents per hour; hand stripping, 160 hours at 65 cents per hour.

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised November 19, 1951, 16 F. R. 10733)

C. D. Jessup & Co., Claremont, N. C., effective 6-8-53 to 5-7-54; 5 learners.

Waldensian Hosiery Mills, Inc., Valdese, N. C., effective 5-4-53 to 5-3-54; 5 percent of the total number of factory production workers (not including office and sales personnel).

Willis Hosiery Mills, Inc., Concord, N. C., effective 4–28–53 to 12–27–53; 25 learners for expansion purposes.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.14)

Sewell Manufacturing Co., Bremen, Ga., effective 5-1-53 to 4-30-54; 7 percent of the total number of factory production workers so engaged, in the production of men's and boys' rayon suits and coats only; machine operating (except cutting), handsewers, pressers; each 480 hours; 65 cents per hour for the first 240 hours and not less than 70 cents for the remaining 240 hours (men's and young men's suits).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 4th day of May 1953.

MILTON BROOKE,
Authorized Representative
of the Administrator

[F. R. Doc. 53-4179; Filed, May 12, 1953; 8:46 a. m.]

POST OFFICE DEPARTMENT

FOURTH-CLASS MAIL

PROPOSED INCREASED POSTAGE RATES AND OTHER REFORMATIONS

The Comptroller General of the United States has ruled, in decisions dated March 19, 1952, and June 17, 1952 (B-108245) that (1) the general provisions relating to the Post Office Department contained in Chapter IV of the Supplemental Appropriation Act, 1951, approved September 27, 1950 (64 Stat. 1050; 31 U.S. C. 695) constitutes permanent legislation; and (2) in withdrawing appropriated funds from the general funds of the Treasury to the Post Office

Department on or after July 1, 1952, the Post Office Department must certify that "its latest cost analysis shows that the fourth-class mail rates are producing sufficient revenues to cover the cost of carrying such mail, or that a further petition has been filed with the Interstate Commerce Commission for an increase in the rates to cover the deficiencies therein as disclosed by the annual cost accounting operations of the Post Office Department." Such petition was filed with the Interstate Commerce Commission on June 25, 1952, Docket No. 31074.

On the basis of available information increases in the fourth-class mail rates on controlled circulation publications weighing over 8 ounces, and on individually addressed catalogs and similar printed advertising matter in bound form weighing more than 8 ounces but not exceeding 10 pounds, are necessary to insure the receipt of sufficient revenue to pay the cost of fourth-class mail service. Accordingly, pursuant to said petition filed with the Commission on June 25, 1952, in addition to proposed increased postage rates on fourth-class

mail subject to the regular parcel post zone rates, notice of which was published on December 3, 1952, in volume 17 of the Federal Register at page 10909, it is proposed to increase the postage rates on such controlled circulation publications and on individually addressed catalogs and similar printed advertising matter as follows:

(a) That increased postage rates on controlled circulation publications weighing over 8 ounces, containing 24 pages or more and issued at regular intervals of four or more times a year, 25 per centum of whose pages are devoted to text or reading matter and not more than 75 per centum to advertising matter, which are circulated free or mainly free, be established by increasing the postage rate computed on the bulk weight to 11 cents per pound.

(b) That increased postage rates on individually addressed catalogs and similar printed advertising matter in bound form weighing more than 8 ounces but not exceeding 10 pounds, and consisting of 24 or more pages, be established as set forth in the following schedule:

Schedule of Proposed Rates of Postage on Catalogs and Similar Printed Advectising Matter of the Fourth Class

Weight in pounds	Lecal	Zones						
		1-2	3	4	5	6	7	8
1	8.13 112 (1) 115 (1) 116 (1) 116 (1) 116 (1) 116 (1) 116 (1) 116 (1)	8.16 19 19 19 19 19 19 19 19 19 19 19 19 19	6 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	\$9.17 -21% -23% -33% -35% -44% -44% -53%	89.18 287 297 297 297 297 207 207 207 207 207 207 207 207 207 20	80.10 .20% .31% .41 .43 .63% .63% .70 .70 .81%	8.29 .23 .33 .44 .52 .63 .76 .84 .82	\$9.21 .20 .21/. .60 .65 .65 .82/. .91

Exception. In the first or second zone, where the dictance by the chartest regular practicable mail route is 200 miles or more, the rate is the came as for the third zone.

Although the rate making procedures in the Post Office Department with respect to fourth-class mail do not come within the rule making requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003), it is the intention of the Post Office Department to afford the public an opportunity to present written data, views, or arguments for consideration by the Post Office-Department in determining the extent and character of final rate proposals and other reformations to be established with respect to fourth-class mail.

The proposed rate reformation set forth in (a) and (b) above, are embodied in proposals filed by the Postmaster General with the Interstate Commerce Commission in Docket No. 31074 on April 14, 1953, and April 7, 1953, respectively, hearing thereon having been set for July 20, 1953, at the office of the Commission at Washington, D. C.

Accordingly, notice is hereby given that (1) available information on which the above-listed rate increases and other reformations are based, may be obtained from the Comptroller, Bureau of Accounts, Post Office Department, Washington 25, D. C., upon request; (2) representatives of the Post Office Department will be available for conference with respect to the proposed rate increases and other reformations on May

28, 1953, at 10 a. m., in Room 5041, Post Office Department, Twelfth Street and Pennsylvania Avenue NW., Washington, D. C., and (3) all written data, views, or arguments for consideration by the Post Office Department in determining the extent and character of the said rates and other reformations covered by this notice must be transmitted to the Postmaster General, Post Office Department, Washington 25, D. C., not later than June 16, 1953.

[SEAL]

Ross Rizley, Solicitor

[F. R. Doc. 53-4218; Filed, May 12, 1953; 8:54 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 4579]

SALIOAN AIRLINES, LTD., REOPENED CASE

NOTICE OF PREHEARING CONFERENCE

In the matter of the application of Lawrence M. Coleman, dba Samoan Airlines, Limited, under section 401 of the Civil Aeronautics Act of 1938, as amended, for a certificate of public convenience and necessity authorizing scheduled air transportation of persons and property between Pago Pago, American Samoa, and Apla, Western Samoa.

Notice is hereby given that a prehearing conference in the above-entitled

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matter is assigned to be held on May 18, 1953, at 10:00 a.m., e. d. s. t., in Room 2045, Temporary Building No. 4, Seventeenth Street, South of Constitution Avenue NW., Washington, D. C., before Examiner Barron Fredricks.

Dated at Washington, D./C., May 8, 1953.

[SEAL]

Francis W Brown, Chief Examiner

[F. R. Doc. 53-4224; Filed, May 12, 1953; 8:55 a.m.]

[Docket No. SA-275]

Accident Occurring Near Selleck, Wash.

NOTICE OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry N 65743, which occurred near Selleck, Washington, on April 14, 1953.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that hearing is hereby assigned to be held on Wednesday, May 13, 1953, at 9:00 a.m. (local time) in the Roosevelt Hotel, Seventh and Pine Streets, Seattle, Washington.

Dated at Washington, D. C., May 7, 1953.

[SEAL]

EVERETT S. BOSWORTH, Presiding Officer

[F. R. Doc. 53-4223; Filed, May 12, 1953; 8:55 a. m.]

[Docket No. SA-276]

ACCIDENT OCCURRING NEAR SELLECK, WASH.

NOTICE OF HEARING

In the matter of investigation of accident-involving aircraft of United States registry N-1693M, which occurred near Selleck, Washington, on April 23, 1953.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly section 702 of said act, in the above-entitled proceeding that hearing is hereby assigned to be held on May 19, 1953, at 9:00 a.m. (local time) in the Roosevelt Hotel, Seventh and Pine Streets, Seattle, Washington.

Dated at Washington, D. C., May 7th, 1953.

[SEAL]

EVERETT S. BOSWORTH,
Presiding Officer

[F. R. Doc. 53-4222; Filed, May 12, 1953; 8:55 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6485]

MONTANA-DAKOTA UTILITIES Co.

NOTICE OF SUPPLEMENTAL ORDER AUTHOR-IZING ISSUANCE OF COMMON STOCK

May 6, 1953.

Notice is hereby given that on May 5, 1953, the Federal Power Commission is-

sued its order adopted May 5, 1953, authorizing issuance of common stock in the above-entitled matter.

[SEAL]

Leon M. Fuquay, Secretary.

[F. R. Doc. 53-4181; Filed, May 12, 1953; 8:46 a. m.]

[Docket No. E-6486]

MONTANA POWER CO.

NOTICE OF SUPPLEMENTAL ORDER AUTHOR-IZING ISSUANCE OF SECURITIES

May 6, 1953.

Notice is hereby given that on May 5, 1953, the Federal Power Commission issued its order adopted May 5, 1953, authorizing issuance of securities in the above-entitled matter.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 53-4182; Filed, May 12, 1953; 8:46 a. m.]

[Docket No. E-6490]

PACIFIC POWER & LIGHT CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF COMMON STOCK

MAY 7, 1953.

Notice is hereby given that on May 7, 1953, the Federal Power Commission issued its order adopted May 6, 1953, authorizing issuance of common stock in the above-entitled matter.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 53-4206; Filed, May 12, 1953; 8:51 a. m.]

[Docket Nos. G-1116, G-1152, G-1240, G-1317, G-1344, G-1379, G-1415, G-1417, G-1457, G-1509, G-1616, G-1625, G-1659]

PANHANDLE EASTERN PIPE LINE CO. ET AL.
ORDER PERMITTING WITHDRAWAL OF APPEAL
TO COMMISSION AND FIXING DATE FOR
FURTHER HEARING

In the matters of Panhandle Eastern Pipe Line Company, Docket Nos. G-1116, G-1240, G-1317, G-1344, and G-1417 City of Port Huron, City of Marysville, City of St. Clair, Michigan, municipal corporations, Docket No. G-1152; Southeastern Michigan Gas Company Docket No. G-1415; Michigan Consolidated Gas Company complainant, Docket No. G-1379; v. Panhandle Eastern Pipe Line Company, defendant, Northern Indiana Fuel and Light Company, Docket No. G-1457 Missouri Central Natural Gas Company, Docket No. G-1509; The Central West Utility Company Docket No. G-1616; Michigan Gas Utilities Company Docket No. G-1625, City of Auburn, Illinois, Docket No. G-1659.

On April 3, 1953, Staff Counsel filed with the Commission an "Appeal to the Commission from Rulings of the Presiding Examiner" excluding from the record certain testimony proffered, and

rejecting a motion to incorporate by reference other testimony.

On May 6, 1953, Staff Counsel filed with the Commission a "Notice of Withdrawal of 'Appeal to the Commission from Rulings of the Presiding Examiner and Notice of Waiver of Right to Cross-Examine Witness." From the notice it appears that on April 27, 1953, testimony was given by a witness for Panhandle Eastern Pipe Line Company. It is with respect to this testimony that Staff Counsel waives the right to cross-examine.

It appears, further, from the Notice that upon withdrawal of the Appeal and waiver of the right to cross-examine the record in the proceedings may be closed and the hearing concluded. The hearing in the proceedings, however, was recessed by the Presiding Examiner on April 27, 1953, to May 19, 1953, by reason of the fact that the Presiding Examiner would during the interim period, be presiding at another proceeding. At the time the hearing was recessed it appeared that further testimony might be adduced by the parties.

In view of the fact that it now appears that further testimony will not be offered and the hearing in the proceedings can be closed, it would be in the public interest to fix a date earlier than May 19, 1953, for further hearing in anticipation of closing the record in the proceeding and expediting the conclusion of the proceedings.

The Commission finds:

(1) Good cause exists for permitting the withdrawal of the Appeal filed in these proceedings by Staff Counsel on April 3, 1953.

April 3, 1953.

(2) It would be in the public interest to have the hearing in the proceedings reconvene on a date prior to May 19, 1953, in anticipation of having the record closed, and the hearing in the proceedings concluded.

The Commission orders:

(A) Staff Counsel be and hereby is permitted to withdraw the Appeal filed in these proceedings on April 3, 1953: Provided, however That such withdrawal is without prejudice to the rights of parties to argue the questions presented by such Appeal in their briefs and in further proceedings in these consolidated matters.

(B) The hearing in the proceedings be reconvened in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., on May 14, 1953, at 10:00 a. m., e. d. s. t., for the purpose of closing the record in the proceedings and for other necessary procedures incident thereto.

Adopted: May 7, 1953.

Issued: May 7, 1953.

By the Commission.

[SEAL]

Leon M. Fuquay, Secretary,

[F. R. Doc. 53-4210; Filed, May 12, 1953; 8:52 a. m.]

¹On April 8, 1953, Panhandle Eastern Pipo Line Company filed a "Motion * * * * to Strike or Dismiss Staff's Appeal from Rulings of Presiding Examiner."

[Docket Nos. G-1907, G-1915, G-1961] SOUTHERN NATURAL GAS CO. ET AL.

NOTICE OF ORDER ISSUING AND DENYING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

MAY 7, 1953.

In the matters of Southern Natural Gas Company, Docket No. G-1907; South Georgia Natural Gas Company, Docket No. G-1915; South Carolina Natural Gas Company, Docket No. G-1961.

Notice is hereby given that on May 4, 1953, the Federal Power Commission issued its order adopted April 30, 1953, in the above-entitled matters, issuing certificates of public convenience and necessity to Southern Natural Gas Company, Docket No. G-1907, and South Carolina Natural Gas Company, Docket No. G-1961, respectively and denying application for certificate of public convenience and necessity to South Georgia Natural Gas Company, Docket No. G-1915.

[SEAL]

Leon M. Fuquay, Secretary.

[F. R. Doc. 53-4207; Filed, May 12, 1953; 8:51 a. m.]

[Docket No. G-1978]

NEWTON COUNTY GAS Co.

NOTICE OF ORDER PERMITTING WITHDRAWAL OF APPLICATION AND TERMINATING PRO-CEEDING

May 7, 1953.

Notice is hereby given that on May 6, 1953, the Federal Power Commission issued its order adopted May 5, 1953, permitting withdrawal of application filed on June 20, 1952, and terminating proceeding in the above-entitled matter.

[SEAL]

LEON M. FUQUAY. Secretary.

[F. R. Doc. 53-4208; Filed, May 12, 1953; 8:51 a. m.]

[Docket No. G-2135]

EAST OHIO GAS CO.

NOTICE OF FINDINGS AND ORDER

May 7, 1953.

Notice is hereby given that on May 6, 1953, the Federal Power Commission issued its order adopted May 5, 1953, issuing a certificate of public convenience and necessity in the above-entitled matter.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 53-4209; Filed, May 12, 1953; 8:51 a. m.]

INTERNATIONAL JOINT COMMISSION

[Docket No. 61]

United States and Canada

HEARING ON POLLUTION OF AIR IN VICINITY
OF DETROIT AND WINDSOR

Representations have been made to the Governments of the United States

the vicinity of Detroit and Windsor on both sides of the International Boundary in the area of the Detroit River is being polluted by the discharge of smoke, soot, and fly ash in quantities sufficient to be detrimental to public health and general welfare of the citizens of both countries in the area; and it has also been represented to the two Governments that vessels plying the Detroit River are a source of this pollution. Pursuant to the provisions of Article IX of the Boundary Waters Treaty of 1909, the two Governments have agreed to a Joint Reference of this matter to the International Joint Commission. The Commission is requested to inquire into and report to the two Governments with recommendations as to remedial or preventive measures which would in its judgment be most practical and economical.

Notice is hereby given that a Public Hearing will be held in the City of Detroit, Michigan, in Court Room 737 of the Federal Building, 231 Lafayette Street, at 10:00 a.m., e. d. t., on Friday, June 5, 1953, to hear statements of citizens of both the United States and Canada on emission of smoke from vessels and various factors which affect the pollution of the air in the area above mentioned,

JESSE B. ELLIS,
Secretary,
United States Section,
Washington, D. C.
E. M. SUTHERLAND,
Secretary,
Canadian Section,
Ottawa, Canada.

MAY 5, 1953.

[F. R. Doc. 53-4294; Filed, May 12, 1953; 10:47 a. m.]

[Docket No. 67]

UNITED STATES AND CANADA

HEARING ON WATER LEVELS OF LAKE ONTARIO

In order to determine, having regard to all other interests, whether measures can be taken to regulate the level of Lake Ontario for the benefit of property owners on the shores of the Lake in the United States and Canada so as to reduce the extremes of stage which have been experienced, the Governments of the United States and Canada have agreed to refer the matter to the International Joint Commission for investigation and report pursuant to Article IX of the Treaty relating to boundary waters signed January 11, 1909.

Notice is hereby given that a Public Hearing will be held in the City of Detroit, Michigan, in Court Room 737 of the Federal Building, 231 Fafayette Street, at 10:00 o'clock a. m., c. d. t., on Thursday, June 4, 1953, to hear statements of citizens of both the United States and Canada on the various factors above Lake Ontario which affect the

and Canada to the effect that the air in fluctuation of water levels on Lake the vicinity of Detroit and Windsor on Ontario

Jesse B. Ellis,
Secretary,
United States Section,
Washington, D. C.
E. M. Sutherland,
Secretary,
Canadian Section,
Ottawa. Canada.

MAY 5, 1953.

[F. R. Doc. 53-4180; Filed, May 12, 1953; 10:47 a, m.]

OFFICE OF DEFENSE MOBILIZATION

[CDHA 111]

NIAGARA FALLS AIR FORCE BASE, NEW YORK, AREA

FINDING AND DETERLIMATION OF CRITICAL DEFENSE HOUSING AREAS UNDER THE DE-FENSE HOUSING AND COLLIUNITY FACILI-TIES AND SERVICES ACT OF 1951

MAY 7, 1953.

Upon a review of the construction of new defense plants and installations, and the reactivation or expansion of operations of existing defense plants and installations, and the in-migration of defense workers or military personnel to carry out activities at such plants or installations and the availability of housing and community facilities and services for such defense workers and military personnel in the area set forth below, I find that all of the conditions set forth in section 101 (b) of the Defense Housing and Community Facilities and Services Act of 1951 (Pub. Law 139, 82d Cong., 1st Sess.) exist.

Accordingly, pursuant to section 101 of the Defense Housing and Community Facilities and Services Act of 1951 and by virtue of the authority vested in me by paragraph number 1 of Executive Order 10296 of October 2, 1951, I hereby determine that said area is a critical defense housing area.

Niagara Falls Air Force Base, New York, Area. (The area conclets of the Towns of Niagara and Wheatfield in Niagara County, New York.)

> ARTHUR S. FLEMMING, Director of Defense Mobilization.

[F. R. Doc. 53-4189; Filed, May 12, 1953; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7-1538, 7-1539]

Warner Bros. Pictures Inc., and Stanley Warner Corp.

MOTICE OF APPLICATION FOR UNLISTED TRAD-ING PRIVILEGES, AND OF OPPORTUNITY FOR HEADING

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in: Warner Bros. Pictures, Inc., Common Stock, \$5 Par Value, 7–1538; Stanley Warner Corporation, Common Stock, \$5 Par Value, 7–1539.

At a regular session of the Securities and Exchange Commission, held at its

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office in the city of Washington, D. C., on the 6th day of May A. D. 1953.

The Boston Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, \$5 Par Value, of Warner Bros. Pictures, Inc., registered and listed on the New York Stock Exchange; and the Common Stock, \$5 Par Value, of Stanley Warner Corporation, registered and listed on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to June 1, 1953, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F. R. Doc. 53-4199; Filed, May 12, 1953; 8:50 a. m.]

[File Nos. 7-1540, 7-1541]

MERRITT-CHAPMAN & SCOTT CORP. AND PARAMOUNT PICTURES CORP.

NOTICE OF APPLICATION FOR UNLISTED TRAD-ING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

In the matter of application by the Philadelphia-Baltimore Stock Exchange for unlisted trading privileges in Merritt-Chapman & Scott Corporation, Common Stock, \$12.50 Par Value, 7-1540; Paramount Pictures Corporation, Common Stock, \$1.00 Par Value, 7-1541.

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 7th day of May A. D. 1953.

The Philadelphia-Baltimore Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, \$12.50 Far Value, of Merritt-Chapman & Scott Corporation, registered and listed on the New York Stock Exchange; and the Common Stock, \$1.00 Par Value, of Paramount Pictures Corporation, registered and listed on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the appli-

cation to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to June 2, 1953, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F. R. Doc. 53-4200; Filed, May 12, 1953; 8:50 a. m.]

Ampro Royalty Management

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Ampro Royalty Management, Apco Tower, Oklahoma City 2, Oklahoma.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 6th day of May 1953.

I. The Commission's public official files disclose that Ampro Royalty Management, an express trust under the Laws of Oklahoma hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof, stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1951 and 1952, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

- (a) Whether the statement referred to in Paragraph II hereof is true;
- (b) Whether registrant has wilfully violated section 17 (a) of the Securities

Exchange Act of 1934 and Rule X-17A-5 adopted under said section:

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and (d) Whether, pursuant to section 15

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V It is ordered, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 9th day of June 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 2, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to June 9, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F. R. Doc. 53-4198; Filed, May 12, 1953; 8:49 a. m.]

GLENN LOWELL CARMICHAEL

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Glenn Lowell Carmichael, Route No. 1, Lenexa, Kansas.

At a regular session of the Scourities and Exchange Commission held at its

¹Filed as part of original document.

the 6th day of May 1953.

I The Commission's public official files disclose that Glenn Lowell Carmichael, a sole proprietorship, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof, stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1951 and 1952, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V It is ordered, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 9th day of June 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 2, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission

office in the city of Washington, D. C., on a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the Federal Register not later than fifteen (15) days prior to June 9, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecutinng functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL]

ORVAL L. DUBOIS, Secretary.

[F. R. Doc. 53-4197; Filed, May 12, 1953; 8:49 a. m.1

LEO A. DUNN

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Leo A. Dunn, 242 East Second Street, Casper, Wyoming.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 6th day of May 1953.

I. The Commission's public official files disclose that Leo A. Dunn, a sole proprietorship, hereinafter referred to as registrant, is registered as a brokerdealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof, stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1952, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V It is ordered. That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 9th day of June 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington, 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 2, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) day prior to June 9, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL]

ORVAL L. DUBOIS. Secretary.

[F. R. Doc. 53-4195; Filed, May 12, 1953; 8:49 a. m.]

JOSEPHUS DEWITT ELMENDORF

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Josephus DeWitt Elmendorf, 10 Pond Street, Milford, Connecticut.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 6th day of May 1953.

I. The Commission's public official files disclose that Josephus DeWitt Elmen-

¹Filed as part of original document.

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dorf, a sole proprietorship, hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange, Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof, stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1947, 1948, 1949, 1950, 1951, and 1952, as required by section 17 (a) of the Securities Exchange Act of 1934, and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V It is ordered, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 9th day of June 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 2, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room

Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the Federal Register not later than fifteen (15) days prior to June 9, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, Secretary.

[F R. Doc. 53-4196; Filed, May 12, 1953; 8:49 a. m.]

GEFKE-DALTON & Co.

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the Matter of Gefke-Dalton & Company, 107 South Main Avenue, Sioux Falls, South Dakota.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 6th day of May 1953.

I. The Commission's public official files disclose that Gefke-Dalton & Company hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof, stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1943 to 1952 inclusive, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section:

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

registration of registrant; and
(d) Whether, pursuant to section 15
(b) of the Securities Exchange Act of
1934, pending final determination, it is
necessary or appropriate in the public
interest or for the protection of investors
to suspend the registration of registrant.

V It is ordered, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 9th day of June 1953 at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 2, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to June 9, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, Secretary.

[F R. Doc. 53-4194; Filed, May 12, 1953; 8:48 a. m.]

² Filed as part of original document.

MORTGAGE-INVESTMENT Co.

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Mortgage-Investment Company, 701 West Second Street, Hastings, Nebraska.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 6th day of May 1953.

I. The Commission's public official files disclose that Mortgage-Investment Company hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof, stating that registrant did not file with the Commission reports of his financial condition during the calendar years 1950, 1951, or 1952, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. It is ordered, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 9th day of June 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with

respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 2, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to June 9, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS, Secretary.

[F. R. Doc. 53-4192; Filed, May 12, 1953; 8:48 a. m.]

DIVISION OF CORPORATE REGULATION

TRANSFER OF CERTAIN REGULATORY FUNCTIONS

The Securities and Exchange Commission has announced the separation of the administration of its regulatory functions under the Investment Company Act of 1940 from the administration of the disclosure and reporting requirements of that act, by the transfer of the regulatory functions to the Division of Public Utilities which performs smillar functions under the Public Utility Holding Company Act of 1935.

This action will permit the Division of Corporation Finance to concentrate its efforts upon the disclosure and reporting requirements of the Investment Company Act, the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939.

Coincident with the assumption of the new duties, the Division of Public Utili-

ties has been redesignated the "Division of Corporate Regulation."

By the Commission.

SEAL] ORVAL L. DUBOIS,

Secretary.

.MAY 4, 1953.

[F. R. Doc. 53-4191; Filed, May 12, 1953; 8:47 a. m.]

LOUIS ERNEST NEHENBORF

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Louis Ernest Neuendorf, First National Bank Building, Batavia, Illinois.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 6th day of May 1953.

I. The Commission's public official files disclose that Louis Ernest Neuendorf hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof, stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1952, as required by section 17 (a) of the Securities Exchange Act of 1934, and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. It is ordered, That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 3th day of June 1953 at the main office of the Securities and Exchange Com-

Filed as part of original document.

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mission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before June 2, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived:

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to June 9, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions.

in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DuBois, Secretary.

[F R. Doc. 53-4193; Filed, May 12, 1953; 8:48 a. m.]